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In The
Supreme Court of the United States

UNIVERSITY OF ALABAMA AT BIRMINGHAM BOARD OF TRUSTEES, et al.,

Petitioners,

v.

PATRICIA GARRETT, et al.,

Respondents.

On Writ Of Certiorari To The
United States Court Of Appeals
For The Eleventh Circuit

Appendix to Brief Of Morton Horwitz, Martha Field, Martha Minow And Approximately 100 Other Historians And Scholars, *Amici Curiae* In Support Of Respondents

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APPENDIX

COMPENDIUM OF STATE-SPONSORED DISCRIMINATION AGAINST PERSONS WITH DISABILITIES

In this Appendix, amici curiae have gathered a collection of state statutes, session laws, and constitutional provisions that illustrate pervasive state-sponsored discrimination against persons with disabilities, dating from the late nineteenth century through the time of the ADA's enactment and (in some cases) to the present. The collection is representative, rather than exhaustive. The provisions contained herein represent an historical perspective. Some of them remain in effect, and some do not. All emphasis has been added by amici.

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ALABAMA

Access To The Courts

ALA. CODE § 12-16-60 (1987): Qualifications of jurors.

(a) A prospective juror is qualified to serve on a jury if the juror is generally reputed to be honest and intelligent and is esteemed in the community for integrity, good character and sound judgment and also:

. . .

(3) Is capable by reason of **physical and mental ability** to render satisfactory jury service, and is **not afflicted with any permanent disease or physical weakness** whereby the juror is unfit to discharge the duties of a juror;

. . .

ALA. CODE § 12-21-165 (1987): Incompetent witnesses.

(a) Persons who have not the use of reason, such as **idiots, lunatics during lunacy** and children who do not understand the nature of an oath, are incompetent witnesses.

(b) The court must, by examination, decide upon the capacity of one alleged to be **incompetent from idiocy, lunacy, insanity, drunkenness or infancy**.

Institutionalization

ALA. CODE tit. 45, ch. 5, § 189 (1959): The Bryce hospital and the Searcy hospital named and set apart to the insane.

The Bryce hospital located in Tuscaloosa county and the Searcy hospital, located in Mobile county, named and established by law, for the care and treatment of **insane persons** in the state, are hereby continued under the management and control of the board of trustees of the Alabama state hospitals.

ALA. CODE tit. 45, ch. 5, § 204 (1959): Institutions used solely for **insane patients**.

The state hospitals shall be maintained and used solely for the care, treatment, and custody of such patients as have been committed to them as **insane** by a proper court. No other classes of patients shall be admitted.

ALA. CODE tit. 45, ch. 5, § 205 (1959): Insanity defined which renders person eligible as patient.

A person shall be adjudged **insane** who has been found by a proper court **sufficiently deficient** or **defective mentally** to require that, for his own or others' welfare, he be moved to the insane hospital for restraint, care and treatment. Whether the person's **mental abnormality** is sufficiently grave to warrant such procedure is always the question to be decided by the court.

ALA. CODE tit. 45, ch. 5, § 231 (1959): The Partlow state school for mental deficients.

There shall be upon or near the grounds of the Bryce hospital, near Tuscaloosa, Alabama, a school and home for **mental deficients or inferiors** as hereinafter defined, to be known as the Partlow state school for mental deficients, and referred to in this chapter as "the home."

ALA. CODE tit. 45, ch. 6, § 236 (1959): Mental inferiors and feeble-minded defined.

The following are declared to **be mental inferiors or deficients or feeble-minded**: All persons of whatever age, who are deficient or inferior to the extent of being classed in either of the following groups of the feeble-minded. That is to say, **idiots, imbeciles, feeble-minded or morons**, and any of whom may be, or may not be epileptics, but not violent or insane. The terms "**feeble-minded**" and "**mental inferior or deficient**" within the meaning of this chapter shall include **every person with such a degree of mental defectiveness from birth, or from an early age that he is unable to care for himself and to manage his affairs with ordinary prudence**, or that he is a **menace to the happiness or safety of himself or of others in the community**, and requires care, supervision, and control either for his own protection or for the protection of others. **It is specifically recognized that the greatest danger which the feeble-minded constitute to the community lies in the frequency of the passing on of mental defect from one generation to another**. Any person within the above named class, over the age of five years, and a resident of the state of Alabama for more than a year, may be committed to the home.

ALA. CODE tit. 45, ch. 6, § 239 (1959): Mental deficient, how committed to home.

The relative, guardian, or other person interested in an individual of the class herein defined as mental inferiors or deficients, or feeble-minded, desiring to commit such persons to the home may, if the person be under the age of twenty-one years, apply to the judge of the juvenile court, or where no juvenile court exists, to the probate judge of the county of such person's residence, and if over the age of twenty-one years to the probate judge of the county of such person's residence, for the commitment of such person to the Alabama home; and upon such application such judge to whom the application is made shall at once apply to the superintendent, with description on a form prescribed by the board of

managers of the home, and upon being advised by the superintendent that such applicant can be received, if a proper person, such judge shall examine three persons, one of whom must be a practicing physician, who are acquainted with the person sought to be committed, and with the condition of such person, and such judge if he is satisfied that the person is within the class herein defined as **mental inferiors or deficients**, or **feeble-minded**, and is otherwise eligible to admission into the home, shall make an order on a form prescribed by the board, committing such person to the home and arrange to have such person taken to the home, at the expense of the county if necessary. The judge of the juvenile court and the judge of probate to whom an application for commitment is made shall have full jurisdiction of the application and the person on whose behalf the application is made, and shall have the power and authority to commit such person to the home notwithstanding the family or relatives may object thereto; and when he has made an order of commitment and no member of the family or friend or guardian will convey the person so committed to the home his order of commitment shall be delivered to the sheriff of the county who shall at once convey such person to the home and deliver him to the authorities of the home, and shall in all things obey said order of commitment.

ALA. CODE tit. 45, ch. 6, § 246 (1959): Location of buildings of home.

The building of the home at Tuscaloosa, Alabama, shall be located by the superintendent of the Alabama insane hospitals by and with the consent and approval of the board of managers, on the most eligible site on the land around the Bryce hospital and **as far away from the hospital building as may be practicable**. And the board of managers is hereby authorized and empowered to purchase in the name of the state of Alabama any additional land lying near the land of

the Bryce hospital as may be found necessary for the proper location and conduct of the home.

ALA. CODE tit. 45, ch. 6, § 248 (1959): Arrangement and equipment of buildings.

The buildings for the home shall be located, built, and equipped so as to facilitate the **proper classification of residents according to age, sex, color and grade of deficiency or inferiority**; their employment and training in farming and gardening, mechanics or other useful industries or occupations and to make provisions for schools, church worship, amusement, and diversion that may be conducive to the health, happiness and moral and mental improvement of the inmates.

Managing Own Affairs

ALA. CODE § 26-7A-l (1975): Probate court; grounds.

Any probate court may appoint a curator to take charge of, manage and conserve the property of any person permanently or temporarily residing in this state, who shall become **physically incapacitated**, or **feeble-minded or epileptic or so mentally or physically defective** by reason of age, sickness, use of drugs, the excessive use of alcohol or for other causes that he or she is unable to take care of his or her property, and in consequence thereof, is liable to dissipate or lose the same, or to become the victim of designing persons.

Parenting

ALA. CODE § 26-10-3 (1987): Requirements as to consent of parents, etc.

No adoption of a minor child shall be permitted without the consent of parents, but the consent of a parent who has abandoned the child, who cannot be found, who is **insane or otherwise incapacitated** from giving such consent or who has lost guardianship of the child through divorce proceedings or by the order of a court having jurisdiction may be dispensed with, and consent may be given by the guardian, if there is one, or if there is no guardian, by the state department of human resources or by the licensed child-placing agency which has permanent custody of the said minor child by order of a juvenile court or a court of like jurisdiction.

. . .

Segregated Education

ALA. CODE § 21-1-8 (1987): Residential education and training programs for deaf, blind, etc., persons; cooperation by local school boards, state board of education, etc.

(a) The board of trustees of the Alabama Institute for Deaf and Blind is hereby authorized to provide for the **education and training of the deaf**, the **hearing impaired**, the **blind** and the **visually handicapped** in residential programs at **any location within the state**, with no limitations on the age of participants and no time limit on any participant.

. . .

ALA. CODE § 21-1-10 (1987): Attendance of blind, deaf or mute children between seven and 16 years of age -- Required.

It shall be the duty of any parent, guardian or other person having control of any deaf or blind child between the

ages of seven and 16 years and **so handicapped by deafness, blindness or inability to speak** as to be unable to make satisfactory progress in the public schools of the community in which such child resides **to enroll such child in the Alabama Institute for Deaf and Blind located at Talladega**, Alabama not later than five days after the opening of this school and to **keep such child in school during each scholastic year** for a term of 36 weeks, or for the length of the school term.

ALA. CODE § 21-1-12 (1987): Lists of deaf and blind children within counties; enforcement of attendance of children eligible for benefits of school.

It shall be the duty of the county superintendent of education in each county of Alabama to furnish annually to the attendance officer of his county and the president of the Alabama Institute for Deaf and Blind a **list of the deaf and blind children** of his county with the name, sex, age and address of each, together with the name and address of the parent or guardian of each child, such information to be secured from the school census enumeration books of the county or from any other reliable source, and the attendance officer shall visit the home of each child not later than five days after the opening date of the Alabama Institute for Deaf and Blind, as published by the president of this institution by giving written notice to each county superintendent of education and each city superintendent of education in Alabama. If it is found that any child eligible for the benefits of this school is not enrolled or is not exempt under the provisions of section 21-1-11, he shall serve legal notice on the parent, guardian or other person in control of such child, giving him five days in which to enroll said child in the Alabama Institute for Deaf and Blind. In the event of the failure or refusal of such parent, guardian or other person in charge to enroll said child, he shall proceed against such parent, guardian or other person as though said child were a

hearing or seeing child and shall follow the law as set forth in section 16-13-193.

ALA. CODE § 21-3-4 (1987): Compilation of lists of children having malformations.

The county health officer shall make a list of all children in the county who have any **congenital or acquired malformations**. In order to make this list, he shall avail himself of any information on birth certificates concerning congenital or acquired malformation, any information relative to **crippled children** in the biennial school census, any information he can procure from practicing physicians, the department of pensions and security, the department of education or any other source.

Sterilization

ALA. CODE tit. 45, ch. 6, § 243 (1959): Treatment of inmates prescribed by assistant.

The assistant with the advice and consent of the superintendent shall prescribe for the treatment of the inmates of the [Partlow State School for Mental Deficients], and if after consultation with the superintendent, they deem it advisable they are **hereby authorized and empowered to sterilize any inmate**.

Travel

ALA. CODE § 32-6-7 (1987): Persons to whom license not to be issued.

A driver's license shall not be issued to the following persons:

. . .

(5) Any person adjudged **insane or an idiot, imbecile, epileptic or feebleminded**, until restored to competency by judicial judgment, or released from a hospital for the insane or feeble-minded, upon certification by the superintendent or medical director that such person is competent, nor then, unless the director of public safety or examining officer is satisfied such person is competent to drive a motor vehicle with safety to persons and property;

(6) Any person afflicted with or suffering from a **physical or mental disability** which, in the opinion of the director of public safety or examining officer will prevent such person from exercising reasonable and ordinary control over a motor vehicle.

1907 Ala. Acts 313:

SECTION 1. *Be it enacted by the legislature of Alabama,* That the immigration board for the State of Alabama is hereby created, to consist of the governor, who shall be chairman of said board, the commissioner of agriculture and industries, and one immigration commissioner.

. . .

SEC. 7. *Be it further enacted,* That the immigration board shall use all lawful means to prevent the induction into this State of immigrants of an undesirable class, and to this end shall investigate the conditions of the applicants for admission through the department, so as to discourage the coming in of persons of an anarchistic tendency, of paupers, of **persons suffering with contagious or communicative diseases**, of **cripples** without means and **unable to perform mental or physical service**, of **idiots**, **lunatics**, persons of bad character, or of any persons who are likely to become a

charge upon the charity of the State, and all such as will not make good and law-abiding citizens.

. . .

Voting

ALA. CONST. art. VIII, § 182 (Michie 1977): Certain persons disqualified from registering and voting.

The following persons shall be disqualified both from registering, and from voting, namely:

All **idiots and insane persons**

. . .

ALASKA

Institutionalization

ALASKA STAT. § 831 (Michie 1905):

Commissioners appointed by the judges of the district court in the District of Alaska, pursuant to existing laws, shall, as ex officio probate judges and in the exercise of their probate jurisdiction have the power, and it shall be their duty, in their respective districts, to commit, by warrant under their hands and seals, all persons, adjudged insane in their districts to the asylum or sanitarium provided for the **care and keeping of the insane** of the District of Alaska. No person shall be adjudged **insane** or committed as such, except upon and pursuant to the following proceedings, to wit: Whenever complaint in writing is made by **any adult person** to a commissioner that there is an **insane person** at large in the commissioner's district, the lie commissioner shall at once cause such **insane person** to be taken into custody and to be brought before him, and he shall then immediately summon and impanel a jury of six male adults, residents of the district to inquire, try, and determine whether the person so complained of is really insane. The members of said jury shall, before entering upon the discharge of their duty, each take an oath to diligently inquire, justly try, and a true verdict render, touching the **mental condition of the person charged with being insane**. Before entering upon such trial the commissioner shall appoint some suitable person to appear for and represent in the proceeding the person complained of as insane. And in case there is a physician or surgeon in the vicinity who can be procured, the commissioner shall cause such surgeon or physician to examine the person alleged to be insane, and after such examination to testify under oath before the jury in respect to

the mental condition of said person. The commissioner shall preside at said hearing and trial. All witnesses that may be offered shall be heard and shall be permitted to testify under oath in said matter, amid after having heard all the evidence the said jury shall retire to agree upon a verdict, and if the jury unanimously by their verdict in writing find that the said person so charged with being insane as aforesaid is **really and truly insane** and that he ought to be **committed to the asylum or sanitarium** aforesaid and the commissioner approves such finding, he shall enter a judgment adjudging the said person to be insane and adjudging that he be at once conveyed to and thereafter properly and safely kept in the said asylum or sanitarium until duly discharged therefrom by law. The commissioner shall thereupon under his hand and seal, issue his warrant, with a copy of said judgment attached, for the commitment of said insane person to the asylum or sanitarium aforesaid, which warrant shall be delivered to the marshal of the division in which said proceedings are had, and shall direct said marshal to safely keep and **deliver said insane person to said asylum or sanitarium** and the said marshal, for the service of process in connection with and the guarding and transportation of the insane, shall be compensated from the same source and in the same manner as in the case of prisoners convicted of crime.

. . .

ALASKA STAT. § 832 (Michie 1905):

There is hereby established at Fairbanks, in the Territory of Alaska, and at Nome, in the Territory of Alaska, respectively, **a detention hospital for temporary care and detention of the insane**, wherein all insane and other patients in charge of the United States marshal shall be detained until transported to the asylum provided by law for their permanent care and cure, or **otherwise disposed of** as provided by the laws of the United States;

. . .

Segregated Education

ALASKA STAT. § 14.30.340 (Michie 1987): When not required to enroll.

A handicapped child may not be required to enroll in a special education program if the parent or guardian of the child certifies to the satisfaction of the school board of the public school system where the child resides that the child is receiving adequate educational advantages. A child shall be **excused from the compulsory education requirements** if a physician certifies in writing that the child's **bodily, mental or emotional condition** does not permit attendance at school.

Travel

ALASKA STAT. § 47.30.410 (Michie 1987): Persons subject to extradition.

A person alleged to be of **unsound mind** found in this state, who has fled from another state, shall, on demand of the executive authority of the state from which the person fled, be delivered up to be removed to the state where, at the time of the flight the person:

(1) was under detention by law in a hospital, asylum or other institution for the **insane** as a person of **unsound mind**;

(2) had been determined by legal proceedings to be of **unsound mind**, the finding being unreversed and in full force and effect, and the control of the person having been

acquired by a court of competent jurisdiction of the state from which the person fled; or

(3) was subject to detention in that state, which was then the person's legal domicile (personal service of process having been made) based on legal proceedings there pending to have the person declared of **unsound mind**.

Voting

ALASKA CONST. art. V, § 2 (1998): Disqualification.

No person may vote who has been convicted of a felony involving moral turpitude unless his civil rights have been restored. **No person may vote who has been judicially determined to be of unsound mind** unless the disability has been removed.

ARIZONA

Access To The Courts

ARIZ. REV. STAT. ANN. § 21-312 (West 1988): Drawing of names.

The jury commissioner shall conduct the drawing by shaking the master jury box or rotating the master jury wheel so as to mix thoroughly the slips of paper upon which names were written, and he shall publicly draw from the master jury box or master jury wheel the number of names designated in the order. If, after drawing the entire number required, the name of any person has been drawn who is dead or **insane** or who has permanently removed from the county in the knowledge of the jury commissioner or any other person attending the drawing, an entry of the fact shall be made in the minutes of the drawing and the corresponding slip destroyed.

. . .

Employment

ARIZ. REV. STAT. ANN. § 38-292 (West 1988): Notice of vacancy in office.

When an officer is removed, declared **insane** or convicted of a felony or an offense involving a violation of his official duties, or when his appointment is declared void, the body, judge or officer before whom the proceedings were had shall give notice thereof to the officer empowered to fill the vacancy.

Housing Discrimination

ARIZ. REV. STAT. § 36-582 (1999): Residential facilities; zoning; notice; appeal.

A. Unrelated persons living together notwithstanding, a residential facility which serves **six or fewer** persons shall be considered a residential use of property for the purposes of all local zoning ordinances if such facility provides care on a twenty-four hour per day basis. The residents and operators of such a facility shall be considered a family for the purposes of any law or zoning ordinance which relates to the residential use of property. The limitation of six or fewer persons does not include the operator of a residential facility, members of the operator's family or persons employed as staff, except that the total number of all persons living at the residential facility shall not exceed eight.

. . .

H. No residential facility shall be established within a **twelve hundred foot radius** of an existing residential facility in a residential area.

I. Prior to the establishment of a residential facility in a residential area, the department shall give at least **sixty days written notice to the local government unit affected**. The government unit shall have the right to contest the establishment of a residential facility in a residential area by written objection filed with the department within thirty days after receiving notice and may request an administrative hearing pursuant to title 41, chapter 14, article 3.

J. Other **residential facilities which serve seven or more persons shall be a permitted use in any zone in which residential buildings of similar size, containing rooms or apartments which are provided on a continuing**

basis for compensation, are a permitted use. Nothing in this section shall be construed to prohibit any city or country from requiring a conditional use permit in order to maintain a residential facility serving seven or more persons, provided that no conditions shall be imposed on such a facility which are more restrictive than those imposed on other similar dwellings in the same zones.

. . .

Institutionalization

1929 Ariz. Sess. Laws ch. 96:

Be It Enacted by the Legislature of the State of Arizona:

Section 1. There is hereby created **an institution for the care and education of mentally defective** children in the State of Arizona, which shall be known as the Arizona Children's Colony hereinafter called the colony.

. . .

Section 10. The following persons, if not **insane**, shall be held and be determined to be **mentally deficient**, and be entitled to enter said colony, providing such children shall have been residents of Arizona for one year immediately prior to proceedings looking to admission, and providing such children are not hospitalization cases.

(a) Children, residents of Arizona not over the age of 21 years, who are so **mentally deficient** that they are incapable of managing themselves and their affairs independently with ordinary prudence, or of being taught to do so, and who require supervision, control, care and education, for their own welfare, or for the welfare of others, or for the welfare of the community.

(b) Those not over 21 years of age, whose intelligence in the judgment of one or more psychiatrists or physicians, when they have been examined by such psychiatrists or physicians, making use of standard psychological tests and whatever supplementary tests may be available, will not develop without such care, the mental capacity of the average child.

. . .

Section 12. Any parent or guardian of a **mentally defective child**, or if such child have no parent or guardian, **any reputable citizen residing in the county, may file a petition with the juvenile department of the superior court**, setting forth:

(a) The relation of such child to petitioner.

(b) The name, age, sex, and residence of such child.

(c) A concise statement of the child's mental and physical condition.

(d) If known, whether the child has any estate, property or means for support.

(e) In whose custody the child now is, and where, and the length of time it has resided in Arizona.

Such petition shall be verified by the petitioner.

Section 13. Upon the filing of such petition, the court shall make an order setting such petition for hearing in chambers, shall fix the time of such hearing at least five days in advance of such hearing and given notice of such time and place of hearing to the parents or person having custody or control of such child, which notice shall be served upon such persons having custody or control of such child by the

probation officer of the county. Notice of the time and place of the hearing shall also be gives to the examiners appointed by the court.

Section 14. Upon the day of hearing the court shall have said child examined, if it has not already been examined, by the said examiners; shall hear any testimony offered and shall determine whether said child is a fit subject to be placed in said Arizona Children's Colony. If the court does so find, it shall then make and sign an **order of commitment** committing said child to the said Arizona Children's Colony; otherwise said child shall be discharged.

. . .

Section 20. If at any time the superintendent of any state institution reports to the Board that there is a child in such institution which is **mentally defective** as defined by this act and which should be a member or inmate of the colony, then such superintendent may request an examination by the examiners in the county where any such institution is located, and if the examiners report that such child is **mentally defective** and should be in said colony, a petition showing such facts shall be filed with the court committing any such child to such institution, and the court may thereupon order such child transferred from such institution to the colony.

. . .

ARIZ. REV. STAT. ANN § 1-215 (West 1988): Definitions.

In the statutes and laws of the state, unless the context otherwise requires:

. . .

Section 16. "Mentally ill person" includes an **idiot**, an **insane person**, a **lunatic** or a **person non compos.**

Segregated Education

ARIZ. CONST. art. XI, § 1 (1988): Public school system; establishment and maintenance; elements; education of the deaf, dumb, and blind.

The Legislature shall enact such laws as shall provide for the establishment and maintenance of a general and uniform public school system, which system shall include kindergarten schools, common schools, high schools, normal schools, industrial schools, and a university (which shall include an agricultural college, a school of mines, and such other technical schools as may be essential, until such time as it may be deemed advisable to establish separate State institutions of such character.) The Legislature shall also enact such laws as shall provide for the education and care of the **deaf**, **dumb**, and **blind**.

Sterilization

1929 Ariz. Sess. Laws ch. 44:

Be It Enacted by the Legislature of the State of Arizona.

Section 1. Whenever the superintendent of the State Hospital for the Insane shall be of the opinion that it is for the best interests of the patients and of society that any inmate of the institution under his care should be **sexually sterilized**, such superintendent is hereby authorized to perform, or cause to be performed by some capable physician or surgeon, the operation of sterilization on any such patient confined in such institution, afflicted with **hereditary forms of insanity** that are recurrent, **idiocy**, **imbecility**, **feeble-mindedness**, or

epilepsy; provided, that such superintendent shall have first complied with the requirements of this act.

. . .

Voting

ARIZ. CONST. art. VII, § 2 (1988): Qualifications of voters; disqualification.

. . .

No person under guardianship, non compos mentis, or insane, shall be qualified to vote at any election, nor shall any person convicted of treason or felony, be qualified to vote at any election unless restored to civil rights.

ARKANSAS

Access To The Courts

ARK. CODE ANN. § 16-31-102 (1987): Disqualifications.

(a) The following are disqualified to act as grand or petit jurors:

. . .

(2) **Mentally retarded** or **insane** persons;

. . .

(6) Persons whose senses of hearing or seeing are substantially impaired;

. . .

1994 Ark. Acts No. 4, § 6:

It is hereby found and determined by the General Assembly that Arkansas Code 16-31-102 disqualifies from acting as a juror any person who is **mentally retarded** or **insane**, and **any person whose sense of hearing or seeing is substantially impaired**; this act eliminates those disqualifications and in their place disqualifies from jury service persons who by reason of a **physical or mental disability** are unable to render jury services with the exception that no person may be disqualified solely on the basis of loss of hearing or sight; this modification to Arkansas Code 16-31-102 will bring Arkansas law into compliance with federal law; and this act should go into effect immediately in order to allow those persons to begin serving as grand or petit jurors as soon as possible.

Therefore, an emergency is hereby declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall be in full force and effect from and after its passage and approval.

Housing Discrimination

ARK. CODE ANN. § 20-48-606 (Michie 1999): Regulations – Density control.

(a) The division shall promulgate regulations pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq., which shall encompass the following matters:

(1) (A) Limits on the number of new Family Homes I and II to be permitted on blocks, block faces, and other appropriate geographic areas taking into account the existing residential population density and the number, occupancy, and location of similar community residential facilities serving persons in drug, alcohol, juvenile, child, parole, and other treatment programs as well as any other dissimilar facilities such as **public housing**, soup kitchens at churches, and boarding homes.

(B) **Density limits** as follows:

City Population	Total Number of Homes I and II
1,000 or fewer	1
1,001 -- 9,999	1 for every 2,000
10,000 -- 49,000	1 for every 3,000
50,000 -- 249,000	1 for every 10,000
250,000 --	1 for every 20,000

(C) There shall be **three hundred feet (300') between family homes** unless otherwise permitted by local ordinance. There shall be **three thousand feet (3,000')**

between family homes in cities over thirty thousand (30,000) population unless otherwise permitted by local ordinance.

. . .

(4) (A) Procedures by which any resident of a residential zoning district or the governing body of a political subdivision in which a Family Home I or II is or is to be located may **petition the division to deny an application** for a license to operate a Family Home I or II on the grounds that the operation of the home would be in violation of the limits established pursuant to subdivision (1)(A) or under subdivision (1)(B) of this section or that the proposed location is an area of high risk to the health and safety of the residents of the family home.

(B) Petitions claiming the high risk area basis for denial must set forth and document one (1) or more of the following high risk rationales:

(i) High crime area;

(ii) Close proximity to stored hazardous materials;

(iii) Dangerous traffic pattern;

(iv) Frequent flooding;

(v) Insufficient fire protection.

. . .

Institutionalization

ARK. CODE ch. 89 (1904): Institutions of the State, Charitable, and Educational. Subchapter V. Insane Asylum.

Sec. 4179. There shall be established at the city of Little Rock an institution for the care and management of the insane in this state, to be organized and governed as provided in this chapter. The care and management thereof shall he under a board of trustees, appointed, organized and empowered as provided in sections 4129-4134.

Sec. 4192. Immediately after the appointment by the court of any guardian for a **lunatic** or **insane** person, such, guardian shall take steps to have the person thus placed in his charge admitted into said asylum.

Sec. 4193. Any citizen of the state of Arkansas, or resident of said state, who may be, or hereafter become, **insane**, may be admitted to the state insane asylum as a patient, proper proof having been made and proceedings had according to the provisions of this chapter.

Sec. 4194. Whenever it shall appear that any person entitled to admission to the state insane asylum is **insane**, **any reputable citizen of the state** may file a written statement with the county and probate judge of the county in which such supposed insane person may reside, which statement shall be substantially as follows:

I, _____ _____, hereby certify that _____ _____, a citizen or resident of _____ county, state of Arkansas, is, to the best of my belief, insane, and that he (or she) ought to be committed to the state insane asylum for care and treatment, as his (or her) being at large is dangerous to the community, or prejudicial to his (or her) chances of recovery from his (or her) condition of mental disorder.

[Signed.] _____

Sworn to and subscribed before me this —— day of _____, 190—. [Signed.]

County and Probate Judge.

. . .

Sec. 4209. All persons found to be **insane**, for whom application for admission to the state insane asylum shall be made in compliance with the provisions of this chapter, shall be classified as "acute,'' "chronic," "probably incurable" or "incurable," such classifications to be determined by the duration of the disease and such complications as are known to render recovery doubtful or impossible. All cases of less than one year's duration from first recognized symptoms of insanity, shall be classified as "acute;" all cases over one year's duration shall be classified as "chronic;" all cases complicated with **epilepsy**, **original imbecility** or **feeble mindedness**, **deformities of skull from injuries**, old age or **general paralysis**, shall be classified as "probably incurable;" and all other cases shall be classified as "incurable;" provided, that no person of either classification, whether curable or not, and **whether the imbecility or insanity be idiotic or congenital or not**, shall be refused admission as long as there is unoccupied room for patients in the asylum.

1917 Ark. Acts 172: AN ACT to provide an institution for the care and training of the feeble-minded, and for other purposes:

Be it Enacted by the General Assembly of the State of Arkansas:

Section 1. That an institution to be known as the **Arkansas School for the Feeble-Minded**, is hereby created, to be under the direction and control of the Board of Control for the State Charities of Arkansas.

Section 2. That the officers, commissions and boards controlling the several institutions of the State may transfer

to the School for the Feeble-Minded such **feeble-minded inmates** of their own institutions as may be more appropriately taken care of in the new institution.

. . .

Section 10. That until other and more specific legislation shall be enacted for the **control and the commitment of the feeble-minded**, the existing laws of this State now governing the issue shall apply, in so far as they are applicable and are not in conflict with this Act. But no person shall be committed to the School for the Feeble-Minded without the consent of the superintendent of that institution. Voluntary commitments to the institution may be made, with the consent of the superintendent, providing all expenses of the inmate shall be paid.

Section 11. That for administrative purposes, the term **feeble-minded** shall be taken to include **all degrees of mental defect due to arrested or imperfect mental development**. Those feeble-minded persons possessing approximate mental development not to exceed that of a normal child of three, shall be classed as **idiots**; those approximately of the mentality of children from four to ten inclusive, shall be known as **imbeciles**; and those approximately with the mental development of normal children from eight to twelve, inclusive, shall be known as **morons**.

. . .

Section 13. That all laws and parts of laws in conflict with the provisions of this Act are hereby repealed; that this Act is necessary for the public health, peace and safety, and that it shall take effect as an emergency measure, and be in force from and after its passage.

ARK. CODE ANN. § 20-47-103 (Michie 1987): Sanity inquest.

(a) If **any person** shall give information in writing to the probate court that any person in his county is an **idiot, lunatic, or of unsound mind** and pray that an inquiry thereof be had, the probate court, if satisfied that there is good cause for the exercise of its jurisdiction, shall cause the person so charged to be brought before the court and inquire into the facts by a jury, if the facts are doubtful.

(b) The court, if just cause appear and at any time during the term at which an inquisition is had, may set aside the verdict and cause a new jury to be summoned to inquire into the facts. However, when two (2) juries concur in any case, the verdict shall not be set aside.

ARK. CODE ANN. § 16-55-102 (Michie 1987): Definitions.

(a) As used in this code unless the context otherwise requires:

(12) "Person of unsound mind" includes every person who is a **lunatic**, **idiot,** or who is **deranged**. . . .

Segregated Education

ARK. CONST. art. XIX, § 19 (1987): Deaf and dumb and blind and insane persons.

It shall be the duty of the General Assembly to provide by law for the support of institutions for the education of the **deaf and dumb and the blind**, and also for the treatment of the **insane**.

Travel

ARK. CODE ANN. § 12-11-110 (1987): Drunken, insane, and disorderly persons.

(a) It shall be the duty of all peace officers to arrest any **insane** or drunken person, whom they may find at large and not in the care of some discreet person, and take him before some magistrate of the county, city, or town in which the arrest is made.

. . .

Voting

ARK. CONST. art. III, § 5 (1987): Idiots and insane persons.

No **idiot** or **insane person** shall be entitled to the privileges of an elector.

CALIFORNIA

Access To Courts

CAL. CIV. PROC. CODE § 198 (1872): A person is competent to act as a juror if he be:

. . .

2. In possession of his natural faculties and **not decrepit**;

. . .

Institutionalization/Sterilization

CAL. CODE § 2192 (1916): Petition to commit imbecile, etc., to home. Financial condition of parent.

Whenever any parent, guardian, or other person charged with the support of an **imbecile** or **feeble-minded person**, or any **idiot**, or **epileptic** who is not insane, desires him to be admitted into the **home for feeble-minded**, he may petition the superior court of the county in which he resides, for an order admitting such person to such hospital; provided, that any peace officer may petition said court for an order admitting such a person to such hospital. The judge must inquire into the condition or status of such person, and if he finds him to be an **imbecile, feeble-minded person**, **idiot** or **epileptic**, and that he has been a resident of the state for one year next preceding the presentation of the petition, such judge must make an order that he be received, maintained, and educated in such hospital, and on the presentation of such order the superintendent must receive him therein, if the hospital is not already full, or the fund available for its

support exhausted; but the **imbecile, feeble-minded person, idiot**, or **epileptic**, need not be received if, in the judgment of the management of the hospital or the commission, he is not a suitable subject for admission thereto.

. . .

Section 1. Before any person who has been lawfully committed to any state hospital for the insane, or who has been an inmate of the Sonoma State Home, and who is afflicted with **hereditary insanity** or **incurable chronic mania** or shall be released or discharged therefrom, the state commission in lunacy may in its discretion, after a careful investigation of all the circumstances of the case, cause such person to be **asexualized**, and such asexualization whether **with or without the consent of the patient** shall be lawful and shall not render the said commission, its members or any person participating in the operation liable either civilly or criminally.

. . .

Section 3. Any **idiot** if a minor, may be **asexualized** by or under the direction of the medical superintendent of state hospital, with the written consent of his or her parent guardian, and if an adult, then with the written consent his or her lawfully appointed guardian, and upon the written request of the parent or guardian of any such **idiot** or **fool**, the superintendent of any state hospital shall perform such operation or cause the same to be performed without charge therefor.

CAL. CODE § 2187 (1917): Transfer Of Patients [From One Hospital to Another].

. . .

The commission, when it deems it necessary, may transfer any inmate of the **home for feeble-minded** for care and treatment to a state hospital for the **insane** for care and treatment therein and the counties, guardian, relatives or friends of such inmate shall be liable for his care, support and maintenance in said hospital for the insane in the same manner and to the same extent as if the said patient were still an inmate of said home.

. . .

CAL. GOV'T CODE § 203 (West 1987): Custody and restraint of certain persons.

The State may establish custody and restraint of:

(a) **Mentally ill persons, insane persons,** chronic inebriates, and other **persons of unsound mind.**

. . .

Managing Own Affairs

CAL. CIV. CODE § 40 (West 1987): Persons of unsound mind adjudged incapable; powers; establishment of conservatorship; effect.

Subject to Section 1871 of the Probate Code, and subject to Part I (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code, after his incapacity has been judicially determined a **person of unsound mind can make no conveyance or other contract, nor delegate any power or waive any right, until his restoration to capacity.**

. . .

Marriage

CAL. CIV. CODE § 69 (1951): Marriage license: Necessity: Contents: When not to be granted: Consent of parent or guardian: Examination of applicants: Forms for application and license.

All persons about to be joined in marriage must first obtain a license therefor, from a county clerk, which license must show:

. . .

No license must be granted when either of the parties, applicants thereof, is an imbecile, or insane, or is at the time of making the application, for said license, under the influence of any intoxicating liquor, or narcotic drug; and no license may be issued authorizing the marriage of a white person with a Negro, mulatto, Mongolian, or member of the Malay race.

. . .

CAL. CIV. CODE § 4201 (1987): License; necessity; contents; denial; under age applicants; forms; affidavit.

All persons about to be joined in marriage must first obtain a license therefor, from a county clerk, which license must show all of the following:

. . .

No license shall be granted when either of the parties, applicants therefor, is an imbecile, is insane, or is, at the time of making the application for the license, under the influence of any intoxicating liquor, or narcotic drug.

. . .

Parenting

CAL. CIV. CODE § 224 (1917):

A legitimate child can not be adopted without the consent of its parents if living, nor an illegitimate child without the consent of its mother if living, except that consent is not necessary in the following cases, to wit:

. . .

4. From a father or mother who has been declared either **feeble minded** or **insane** by the state commission in **lunacy** or by three competent persons appointed by said commission; provided, that if so declared insane, said father or mother shall have subsequently been determined to be **incurably insane** by the superior court of the county where he or she resides.

. . .

CAL. CIV. CODE § 232 (1987): Persons entitled to be declared free from parental custody and control.

(a) Description of person. An action may be brought for the purpose of having any child under the age of 18 years declared free from the custody and control of either or both of his or her parents when the child comes within any of the following descriptions:

. . .

(5) Person whose parents are declared to be **developmentally disabled** or **mentally ill**. Whose parent or parents have been declared by a court of competent jurisdiction, wherever situated, to be developmentally disabled or mentally ill, if, in the state or country in which the parent or parents reside or are hospitalized, the Director

of Mental Health or the Director of Developmental Services, or their equivalent, if any, and the superintendent of the hospital of which, if any, the parent or parents are inmates or patients, certify that the parent or parents so declared to be developmentally disabled or mentally ill will not be capable of supporting or controlling the child in a proper manner.

(6) Person whose parent or parents are **mentally disabled**. Whose parent or parents are mentally disabled and are likely to remain so in the foreseeable future. As used in this subdivision, "mentally disabled" means that a parent or parents suffer any mental incapacity or disorder which renders the parent or parents unable to adequately care for and control the child.

Travel

1852 Cal. Stat. 78:

. . .

SECTION 1. Within twenty-four hours after the landing of any passenger from any vessel arriving at any of the ports of this State, from any of the United States other than this State, or from any country out of the United States, the master or commander of the vessel from which such passenger or passengers shall have been landed shall make a report in writing, on oath or affirmation, to the mayor or chief municipal officer at such port (or in case of his absence or inability to serve, to the person discharging the duties of his office), which report shall state the name, place of birth, last legal residence, age and occupation of every person or passenger who shall have landed from such vessel in her last voyage to such port not being a citizen of the United States and who shall have within the last preceding twelve months arrived from any country out of the United States at any place within the United States, and who shall not have been

bonded or who have paid the commutation money according to the provisions of this act or any former act. The said report shall contain a like statement of all such persons or passengers as shall have landed or been suffered to land from any such vessel at any place during her said last voyage, or who shall have gone on board of any vessel with the intention of coming into this State. The said report shall further specify if either or any of said passengers or persons so reported are **lunatic**, **idiot**, **deaf**, **dumb**, **blind**, **crippled**, or **infirm** and, if so, whether they are accompanied by any relatives likely to be able to support them.

. . .

Voting

CAL. CONST. art. II, § 5 (1849):

No **idiot** or **insane person**, or person convicted of any infamous crime, shall be entitled to the privileges of an elector.

CAL. CONST. art. II, § 1 (1879):

Every native male citizen of the United States, every male person who shall have acquired the rights of citizenship under or by virtue of the treaty of Queretaro, and every male naturalized citizen thereof, who shall have become such ninety days prior to any election, of the age of twenty-one years, who shall have been a resident of the State one year next preceding the election, and of the county in which he claims his vote ninety days, and in the election precinct thirty days, shall be entitled to vote at all elections which are now or may hereafter be authorized by law; provided, no native of China, **no idiot**, **insane person**, or person convicted of any infamous crime, and no person hereafter convicted of the

embezzlement or misappropriation of public money, **shall ever exercise the privilege of an elector in this State.**

COLORADO

Housing Discrimination

COLO. REV. STAT. § 31-23-303 (1999): Legislative declaration.

. . .

(II) The general assembly declares that the establishment of owner-occupied or nonprofit group homes for the exclusive use of not more than eight persons sixty years of age or older per home is a matter of statewide concern. The general assembly further finds and declares that it is the policy of this state to enable and assist persons sixty years of age or older who do not need nursing facilities, and who so elect, to live in normal residential surroundings, including single-family residential units. Group homes for the aged shall be distinguished from nursing facilities, as defined in section 26-4-103 (11), C.R.S., and institutions providing life care, as defined in section 12-13-101 (5), C.R.S. Every municipality having adopted or which shall adopt a zoning ordinance shall provide for the location of group homes for the aged. **A group home for the aged established under this paragraph (b) shall not be located within seven hundred fifty feet of another such group home**, unless otherwise provided for by the municipality. Nothing in this paragraph (b) shall be construed to exempt such group homes from compliance with any state, county, or municipal health, safety, and fire codes. On April 29, 1976, every person sixty years of age or older who resides in a skilled or intermediate health care facility and who may be transferred or discharged therefrom to a group home for the aged shall not be so discharged or transferred unless he has received ninety days' advance written notice thereof or has agreed in writing to the proposed transfer or discharge.

(b.5) The general assembly declares that the establishment of state-licensed group homes for the exclusive use of mentally ill persons as that term is defined in section 27-10-102, C.R.S., is a matter of statewide concern and that a state-licensed group home for eight persons with mental illness is a residential use of property for zoning purposes, as defined in section 31-23-301 (4). **A group home for persons with mental illness established under this paragraph (b. 5) shall not be located within seven hundred fifty feet of another such group home**, unless otherwise provided for by the municipality. No person shall be placed in a group home without being screened by either a professional person, as defined in section 27-10-102 (11), C.R.S., or any other such mental health professional designated by the director of a facility, which facility is approved by the executive director of the department of human services pursuant to section 27-1-103, C.R.S. Persons determined to be not guilty by reason of insanity to a violent offense shall not be placed in such group homes, nor shall any person who has been convicted of a felony involving a violent offense be eligible for placement in such group homes. The provisions of this paragraph (b. 5) shall be implemented, where appropriate, by the rules of the department of public health and environment concerning residential care facilities for the mentally ill. Nothing in this paragraph (b.5) shall be construed to exempt such group homes from compliance with any state, county, or municipal health, safety, and fire codes.

. . .

Institutionalization

COLO. REV. STAT. § 4125 (1911): Definition of term "Lunatic."

The term **lunatic**, as used in this chapter, shall be construed to include **idiots**, **insane** and **distracted persons**, and every person who by reason of intemperance, or any disorder or unsoundness of mind, shall be incapable of managing and caring for his own estate.

COLO. REV. STAT. § 4127 (1911): Proceedings to commit insane person at large.

Whenever **any reputable person** shall file with the county court a complaint duly verified (or whenever complaint duly verified shall be filed with the county court by an authorized medical examiner, as hereinafter provided) alleging that any person in said county is so **insane** or **distracted in his mind**, as to **endanger his own person and property or the person and property of another, or others if allowed to go at large**, the county court, or the judge thereof, shall forthwith issue an order in the name of the people, directing any person who shall be appointed by said county or judge, or any officer of said court, to execute the same by immediately taking such patient into custody; *Provided,* That when any sheriff or constable shall find within his county any such **insane** person at large, it shall be his duty to apprehend such **insane** person without an order of court; and when any alleged Insane person shall be so arrested by or without an order of court, he or she shall be taken forthwith before the county court or the judge thereof and if the alleged insane person so elect, an inquest as provided for in section 1 shall be held without delay and until the determination of such inquest, such alleged insane person shall be confined in a hospital or if there is no suitable hospital in said county, in some convenient and suitable place to be designated, by the said court or judge. If upon such inquest it shall be found in the verdict of the jury that such alleged insane person is so **insane** or **distracted in mind**, as to endanger his or her own person or property, or the person or property of another or others, if allowed to go at large, it

shall be the duty of the county court to order that the patient be immediately transferred to the state insane asylum.

Managing Own Affairs

COLO. REV. STAT. ch. 8, § 4126 (1911): Contracts of lunatics void--Party dealing with guilty of swindling.

All contracts, agreements, and credits with or to any such **lunatic**, shall be **absolutely void** as against such person, his or her heirs, or personal representatives; but persons making such contracts or agreements with any such **lunatic** shall be bound thereby at the election of his or her conservators.

. . .

COLO. REV. STAT. § 27-10-125 (1975): Imposition of legal disability--deprivation of legal right—restoration.

(1) When **any interested person** wishes to obtain a determination as to the imposition of a legal disability or the deprivation of a legal right for any person who is **mentally ill**, **gravely disabled**, **mentally retarded**, as defined in section 27-10.5-102(8), **developmentally disabled**, as defined in section 27- 10.5-102(4), or **insane**, as defined in section 16-8-101, C.R.S.1973, and who is not then subject to proceedings under this article, part 3 or part 4 of article 14 of title 15, or article 3 of title 26, C.R.S.1973, he may petition the district court, or in the city and county of Denver the probate court, for a specific finding as to such disability or right.

. . .

Segregated Education

COLO. REV. STAT. § 22-80-101 (1990): School located at Colorado Springs.

There shall be permanently maintained in the city of Colorado Springs, in the county of El Paso, an **institution for the support and education of the deaf and the blind** residing within the state of Colorado.

COLO. REV. STAT. § 22-80-102 (1990): Educational institution.

The Colorado school for the deaf and the blind, located in the city of Colorado Springs, in the county of El Paso, is declared to be one of the educational institutions of the state of Colorado and **has for its object the education of the children of the state who, by reason of the impairment of their sense of hearing or of sight, cannot be advantageously educated in the other schools or educational institutions of the state**. Said school shall not be regarded or classed as a reformatory or charitable institution.

COLO. REV. STAT. § 22-80-109 (1990): Who may be admitted.

Every **blind deaf** or **mute** citizen of the state of Colorado under twenty-one years of age is entitled to receive an education in said school unless such person has a **physical or mental condition which would render his instruction impractical**. All applicants above the age of twenty-one years may be admitted at the option of the commissioner of education. Each school district shall report on June 1 of each year to the superintendent of the Colorado school for the deaf and the blind the name, age, and post-office address of every blind or deaf person of suitable age who is eligible for admission to said school and residing in its district, including

all such persons as may be **too deaf or blind to acquire an education in the public school.**

CONNECTICUT

Access To Courts

CONN. GEN. STAT. ANN. § 51-217 (West 1988): Qualification of Jurors.

(a) All jurors shall be electors, or citizens of the United States who are residents of this state having a permanent place of abode in this state and appear on the list compiled by the Jury Administrator under subsection (b) of section 51 -222a, who have reached the age of eighteen. A person shall be disqualified to serve as a juror if such person

. . .

(8) **is incapable, by reason of a physical or mental disability, of rendering satisfactory juror service.** Any person claiming a disqualification under subdivision (8) of this subsection must submit to the Jury Administrator a letter from a licensed physician stating the physician's opinion that such disability prevents the person from rendering satisfactory juror service. In reaching such opinion, the physician shall apply the following guideline: A person shall be capable of rendering satisfactory juror service if such person is able to perform a sedentary job requiring close attention for six hours per day, with short work breaks in the morning and afternoon sessions, for at least three consecutive business days.

. . .

Housing Discrimination

CONN. GEN. STAT. § 8-3f (1999): Establishment of community residences for mentally retarded persons. Zoning approval required.

No community residence established pursuant to section 8-3e shall be established within **one thousand feet** of any other such community residence without the approval of the body exercising zoning powers within the municipality in which such residence is proposed to be established.

Institutionalization

1905 Conn. Pub. Acts. Ch. 196: An Act concerning Insane Paupers and Indigent Persons.

Be it enacted by the Senate and House of Reps in General Assembly convened:

SECTION 1. When any pauper in any town shall be **insane**, a selectman of such town may apply to the court of probate for the district wherein such pauper resides for his **commitment to a state hospital for the insane**, and said court shall appoint two reputable physicians, who shall fully investigate the facts of the case and report to said court; and if such physicians shall report that said pauper is **insane**, the court may order a selectman or some proper officer forthwith to take such pauper to one of the **state hospitals for the insane**, where he shall be kept and supported as long as may be requisite; and two dollars per week of the expense of his support shall be paid by the town whose selectman applies for said commitment, and the balance by the state.

SECTION 2. When an indigent person not a pauper is **insane**, application may be made **by any person** in his behalf to the court of probate for the district where he resides,

and said court shall appoint two reputable physicians, and a selectman of the town where said indigent person resides, who shall fully investigate the facts and report to said court; and such selectman shall include in his report a full statement of the facts relating to the residence of such indigent **insane** person, and his estimate of the value of such indigent **insane** person's estate so far as he can ascertain the same. If said court of probate, upon consideration of the report of said physicians and said selectman, is satisfied that such person is indigent and **insane**, and is a resident of any town within its jurisdiction, it shall order him to be taken by the person making the application, or such other person as it may direct, to one of the **state hospitals for the insane**, where he shall be kept and supported as long as may be requisite; and two dollars per week of the expense of his support shall be paid by the person making the application, and the balance by the state.

. . .

1909 Conn. Acts. Ch. 207: An Act providing for the Establishment of a Colony for Epileptics.

Be it enacted by *the Senate and House of Representatives in General Assembly convened:*

SECTION 1. There shall he established within this state a **colony for epileptics**, the object of which shall be the **scientific treatment, education, employment, and custody of epileptics** and which shall be known as the **Connecticut Colony for Epileptics**.

. . .

SECTION 12. No patient shall be discharged from said institution until, in the judgment of the superintendent, the mental and physical condition of such patient justifies his discharge.

. . .

1911 Conn. Pub. Acts. Ch. 211: An Act amending an Act concerning Commitment and Support of Imbeciles.

Be it enacted by the Senate and House of Reps in General Assembly convened:

Section 2787 of the general statues is hereby amended to read as follows: Whenever there shall be found in any town in the state any pauper or **indigent imbecile person who would be benefited by being sent to the school for imbeciles** at Lakeville, the selectmen of such town shall make application to the court of probate for the district in which such town is situated for the admission of such person to said school, and if, upon inquiry, said court shall find that such person is a proper subject to be received into said school, it shall order said selectmen to take such person to said school, to be kept and supported for such length of time as said court may deem proper. Said selectmen shall not take or commit any such person to said school until the order of said court has been approved by the governors, and no person shall be received at said school to be supported in any manner by the state without the approval of the governor. There shall be taxed by the comptroller two dollars and fifty cents per week for each week such person shall remain at said school, and the principal of said school shall make his bill therefore quarterly, and present it to the governor, upon whose approval it shall be paid by the state treasurer, and the **balance shall be paid by the relative or relatives liable for the support of such person**, or, if the person is a pauper, by the town in which such person belongs.

1913 Conn. Pub. Acts. Ch. 160: An act concerning the Establishment of an Institution for Imbeciles at Lakeville.

Be it enacted by the Senate and House of Reps in General Assembly convened:

SECTION 1. There shall be established at Lakeville an **institution for imbeciles**, the object of which shall be the **care, custody, maintenance, and education** of **imbeciles** resident of this state, and which shall be known as The Connecticut School for Imbeciles.

. . .

Marriage

CONN. GEN. STAT. § 1354-56 (1902): Marriage of epileptics and imbeciles.

SECTION 1354. Every man and woman, either of whom is **epileptic**, **imbecile**, or **feeble-minded**, who shall intermarry, or live together as husband and wife, when the woman is under forty-five years of age, **shall be imprisoned** not more than three years. But nothing herein contained shall be construed as affecting the mutual relations of any man and woman lawfully married on or before the thirty-first of July, 1895.

SECTION 1355. Procuring or aiding such marriage. Every person who shall advise, aid, abet, cause, or assist in procuring the marriage of the persons described in § 1354, knowing them or either of them to be **epileptic**, **imbecile**, or **feeble-minded**, shall be **fined** not more than one thousand dollars, or **imprisoned** not more than five years, or both.

SECTION 1356. Penalty for carnal knowledge in certain cases. Every man who shall carnally know any female under the age of forty-five years who is **epileptic**, **imbecile**, **feeble-minded**, or a pauper, shall be **imprisoned** not more than three years. Every man who is epileptic who shall

carnally know any female under the age of forty-five years, and every female under the age of forty-five years who shall consent to be carnally known by any man who is **epileptic**, **imbecile**, or **feeble-minded**, shall be **imprisoned** not more than three years.

Segregated Education

CONN. GEN. STAT. ANN. § 10-92 (West 1988): Education at Newington Children's Hospital.

Newington Children's Hospital shall maintain a program of education for the **physically handicapped** children under its control and care which shall be approved by the state board of education.

CONN. GEN. STAT. ANN. § 17-307 (West 1988): Care of handicapped and other children at Newington Children's Hospital. Children with drug-related conditions not to be admitted.

Newington Children's Hospital may admit any child who is **handicapped** or **afflicted with any pediatric illness** upon application of the selectmen of any town, or the guardian or any relative of such child, or any public health agency or physician, provided, no person shall be admitted primarily for the treatment of any drug-related condition. Said hospital shall admit such child to said hospital if such child is pronounced by the physicians on the staff of said hospital, after examination, to be suitable for admission, and said hospital shall keep and support such child for such length of time as it deems proper. Said hospital shall not be required to admit any such child unless it can conveniently receive and care for such child at the time application is made and said hospital may return to the town in which such child resides any child so taken who is pronounced by the physicians on the staff of said hospital, after examination, to

be unsuitable for retention or who, by reason of improvement in his condition or completion of his treatment or training, ought not to be further retained. The hospital may refuse to admit any child pronounced by the physicians on the staff of said hospital, after examination, to be unsuitable for admission and may refuse to admit any such child when the facilities at the hospital will not, in the judgment of said physicians, permit the hospital to care for such child adequately and properly.

Sterilization

CONN. GEN. STAT. § 2691 (1918): Operations to prevent procreation.

The directors of the State Prison and the superintendents of the state hospitals for the insane at Middletown and Norwich are authorized and directed to appoint for each of said institutions respectively two skilled surgeons, who in conjunction with the physician or surgeon in charge at each of said institutions, shall constitute a board the duty of which shall be to examine such inmates of said institutions as are reported to them by the warden, superintendent or the physician or surgeon in charge, to be persons by whom **procreation would be inadvisable**. Such board shall examine the physical and mental condition of such persons and their record and family history so far as the same can be ascertained, and if, in the judgment of a majority of said board, **procreation by any such person would produce children with an inherited tendency to crime, insanity, feeble-mindedness, idiocy or imbecility and there is no probability that the condition of any such person so examined will improve to such an extent as to render procreation by any such person advisable**, or if the physical or mental condition of any such person will be substantially improved thereby, then said board shall appoint

one of its members to perform the operation of **vasectomy** or **oophorectomy**, as the case may be, upon such person. Such operation shall be performed in a safe and humane manner, and the board making such examination and the surgeon performing such operation shall receive from the state such compensation for services rendered as the warden of the State Prison or the superintendent of either of such hospitals shall deem reasonable.

CONN. GEN. STAT. § 17-19 (1958): Operations to prevent procreation permitted in certain state institutions.

The directors of the State Prison and the superintendents of the state hospitals for mental illness, the superintendent of the Mansfield State Training School and Hospital and the superintendent of The Southbury Training School are authorized and directed to appoint for each of said institutions two skilled surgeons, who, in conjunction with the physician or surgeon in charge at each of said institutions, shall constitute a board the duty of which shall be to examine such inmates of said institutions as are reported to them, by the warden or superintendent or the physician or surgeon in charge, to be persons by whom **procreation would be inadvisable**. Such board shall examine the physical and mental conditions of such persons and their record and family history so far as the same can be ascertained, and if, in the judgment of a majority of such board, **procreation by any such person would produce children with an inherited tendency to crime, mental illness or mental deficiency and there is no probability that the condition of any such person so examined will improve to such an extent as to render procreation by any such person advisable**, or if the physical or mental condition of any such person will be substantially improved thereby, then such board shall appoint one of its members to perform the operation of **vasectomy** or **oophorectomy**, as the case may be, upon such person. Such operation shall be performed in a

safe and humane manner, and the board making such examination and the surgeon performing such operation shall receive from the state such compensation for services rendered as the warden of the State Prison or the superintendent of either of said hospitals or schools deems reasonable.

Voting

CONN. GEN. STAT. § 9-12 (1967): Who may be admitted.

(a) Each citizen of the United States who has attained the age of twenty-one years, who has resided in the town in which he applies for admission to the privileges of an elector at least six months next preceding the time he so applies, and who, at the time of so applying, is able to read in the English language any article of the constitution or any section of the statutes of the state and sustains a good moral character, shall, on taking the oath prescribed by law, be an elector. **No idiot or mentally ill person shall be admitted as an elector.**

CONN. GEN. STAT. ANN. § 9-12 (West 1988): Who may be admitted.

(a) Each citizen of the United States who has attained the age of eighteen years, and who is a bona fide resident of the town to which he applies for admission as an elector shall, on taking the oath prescribed by law, be an elector, except as provided in sections 9-19e, 9-30 and subsection (b) of this section. For purposes of this section a person shall be deemed to have attained the age of eighteen years on the day of his eighteenth birthday. **No mentally incompetent person shall be admitted as an elector.**

DELAWARE

Employment

DEL. CODE ANN. tit. 19, § 905 (1987): Wage rate for handicapped workers.

For any occupation, the Department may provide by regulations, after public hearing, upon reasonable notice, at which any person may be heard, for the employment of individuals whose earning capacity is **impaired by age or physical or mental deficiency** or injury at such wages lower than the minimum wage rate under this chapter as the Department may deem necessary or appropriate to avoid hardship or prevent curtailment of opportunities for employment. No employee shall be employed at wages fixed pursuant to this section except under special license issued under the applicable regulations of the Department. Such regulations shall, except as may be otherwise provided by the Department, take effect upon publication.

Housing Discrimination

DEL. CODE ANN. tit. 22, § 309 (1999): Residential facilities for developmentally disabled persons.

(a) For purposes of all local **zoning** ordinances a residential facility licensed or approved by a state agency serving 10 or fewer developmentally **disabled** persons on a 24 hour-per-day basis shall be construed to be a permitted single family residential use of such property.

(b) For purposes of this section a developmentally **disabled** person is a person with a **disability** resulting in substantial functional limitations in a person's major life

activities attributable to mental retardation, cerebral palsy, epilepsy or autism, attributable to any other condition found to be closely related to mental retardation because such condition results in similar impairment of general intellectual functioning or adaptive behavior to that of mentally retarded persons or requires treatment and services similar to those required for such persons, or attributable to a physical impairment.

(c) **No residential facility serving 10 or fewer developmentally disabled persons shall be established within a 5,000 foot radius of an existing, similar community residential facility in a residential area.**

Institutionalization

Del. Laws Ch. 172 (1918): Delaware Commission For The Feeble Minded. AN ACT to establish a Home for the care and training of the **feeble minded** of Delaware, and providing for the legal **commitment** of **feeble minded persons** and for other purposes.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met:

Section 1. That there shall be established in this State a home for the care and training of **feeble-minded persons**.

. . .

Section 8. Whenever any person, arrested in this State, shall be supposed to be **feeble-minded**, any relative of such person, or **any reputable citizen of the State**, at any time before the final disposition of the case, may present to the Court of General Sessions of the County, wherein said person was arrested, or to the resident Judge thereof in vacation, or to the Juvenile Court of the City of Wilmington,

a petition setting forth that such person is **feeble-minded**, and praying for the issuance of a rule to show cause why such person should not be committed to the custody of DELAWARE COMMISSION FOR THE FEEBLE MINDED. The petition shall be verified, by affidavit, which shall be sufficient if it states that it is based upon information and belief. Upon the filing of the petition, a rule shall be issued against the person, so arrested, and against the parent or parents, guardian or other custodian of such person, returnable at such time, not exceeding fifteen days thereafter, as shall be fixed by the Court, or Judge. Upon the return of the rule, the Court or Judge shall hear the witnesses in support of the rule, one of whom shall be a psychologist, or an expert on the subject of feeble-mindedness, and shall, also, hear any witnesses in opposition to said rule, and if it shall appear to the satisfaction of the Court or Judge that the person so arrested is **feeble-minded**, and that it would be for the best interests of such feeble-minded person, or of the community at large, the Court or Judge may direct that such feeble-minded person be committed to the custody of DELAWARE COMMISSION FOR THE FEEBLE MINDED until the further order of the Court, or Judge.

Section 9. Whenever any person shall be supposed to be **feeble-minded**, and, when by reason of such mental condition, or of existing social conditions, it would be **detrimental to any community** of this State to allow such person to remain at large, any relative of such person, or any reputable citizen of the State may present to the resident Judge of the County, wherein such person resides, a petition, setting forth that such person is **feeble-minded**, and setting forth the reasons why it would be **detrimental to the community** for such person to remain at large, and praying for the issuance of a rule to show cause why such person should not be committed to the custody of DELAWARE COMMISSION FOR THE FEEBLE MINDED. The petition shall be verified, by affidavit, which shall be sufficient if it

states that it is based upon information and belief. Upon the filing of the petition, a rule shall be issued against the person, so arrested, and against the parent or parents, guardian or other custodian of such person, returnable at such time, not exceeding fifteen days thereafter, as shall be fixed by the Judge. Upon the return of the rule, the Judge shall hear the witnesses in support of the rule, one of whom shall be a psychologist, or an expert on the subject of feeble-mindedness, and shall, also, hear any witnesses in opposition to said rule, and if it shall appear to the satisfaction of the Judge that such person is feeble-minded, and that it would be detrimental to the community for such person to remain at large, the judge may direct that such feeble-minded person be committed to the custody of DELAWARE COMMISSION FOR THE FEEBLE MINDED until the further order of the said Judge.

DEL. CODE ANN. § 5503 (1953): Home for feeble minded; control and management.

There shall be maintained in this State a home for the care and training of **feeble-minded persons**. The Commission shall have sole and complete control and management of the home.

DEL. CODE ANN. § 5521 (1953): Commitment of arrested person; procedure.

(a) Whenever any person, arrested in this State, shall be supposed to be **feeble-minded**, any relative of such person, or any reputable citizen of the State, at any time before the final disposition of the case, may present to the Superior Court of the county wherein the person was arrested, or to the Family Court for New Castle County, or to the Juvenile Court of Kent and Sussex Counties, a petition setting forth that such person is **feeble-minded**, and praying for the issuance of a rule to show cause why such person

should not be committed to the custody of the Delaware Commission for the Feeble-Minded. The petition shall be verified by affidavit, which shall be sufficient if it states that it is based upon information and belief.

. . .

DEL. CODE ANN. § 5522 (1953): Commitment of person not under arrest; procedure.

(a) Whenever any person shall be supposed to be **feeble minded**, and, when by reason of such mental condition, or of existing social conditions, it would be **detrimental to any community** of this State to allow such person to remain at large, any relative of such person, or any reputable citizen of the State may present to the Superior Court of the county wherein such person resides, or to the Family Court for New Castle County, or to the Juvenile Court of Kent and Sussex Counties, a petition, setting forth that such person is **feeble-minded**, and setting forth the reasons why it would be **detrimental to the community** for such person to remain at large, and praying for the issuance of a rule to show cause why such person should not be committed to the custody of the Delaware Commission for the Feeble-Minded. The petition shall be verified by affidavit, which shall be sufficient if it states that it is based upon information and belief.

. . .

DEL. CODE ANN. tit. 16, § 5321 (1987): Admission to Center.

No person shall be admitted to any department of the Center except as provided in § 5323 of this title or except as follows:

(1) Children between the ages of 3 and 18 years who are either seriously maladjusted or mentally ill and who are amenable to modern care and treatment shall be admitted to the Center upon the application of the parents or the surviving parent or legal guardian of any such child or any institution or agency having the care and custody of any such child or by the commitment of any court of this State having jurisdiction over such children;

(2) **Handicapped** or **crippled children**, including spastics, cardiacs and those afflicted with infantile paralysis, shall be admitted to the Center upon the application of the parents or the surviving parent or legal guardian of such children and in the event that both parents of such children are deceased and no legal guardian has been appointed, upon the application of any physician, institution or agency treating or having the care or custody of such children;

(3) No child shall be admitted to the detention department of the Center unless a court having jurisdiction over dependent, neglected, delinquent or maladjusted children commits any such child for the sole purpose of social, psychological and psychiatric study and examination;

(4) A child awaiting assignment to a foster home shall only be admitted upon the application of any public or private agency having the authority or function to place such children in such homes;

(5) No man or woman suffering from alcoholism or being a drug addict without psychosis, either acute or chronic, shall be admitted to the Center except upon the person's own application or the application of the person's parents, or the surviving parent or legal guardian or in the event of none such, upon the application of any physician or institution treating or having the care or custody of any such

person or by the commitment of any court of this State having jurisdiction over any such person;

(6) No person who is an **epileptic** without psychosis shall be admitted to the Center except upon his own application or upon the application of his parents or the surviving parent or legal guardian or in the event of none such, upon the application of any physician or institution treating or having the care or custody of any such person;

(7) No aged person who is bedridden and without frank psychosis and needing nursing care only shall be admitted to the Center except upon his own application or the application of the person or persons responsible for his support and maintenance or upon the application of any institution whether public or private having the care and custody of any such person;

(8) **Handicapped** or **crippled** adults, including spastics and those afflicted with infantile paralysis, shall be admitted to the Center upon their own application or upon the application of any practicing physician in good standing, for the purpose of observation, study and treatment;

(9) In all other cases, no person shall be admitted to the Center except in accordance and in compliance with the rules and regulations which are adopted by the Department of Health and Social Services or Department of Services for Children, Youth and Their Families governing the admissions to their respective sections within the Center.

Managing Own Affairs

DEL. CODE ANN. tit. 1, § 302 (1987): Definitions.

In the construction of this Code and of all other statutes of this State, unless the context requires a different meaning:

. . .

(11) "Mentally ill person" includes every **idiot, lunatic person**, or person non compos mentis.

Marriage

DEL. CODE ANN. tit. 13, § 113 (1987): Supplies of marriage licenses, books and other forms; form.

(a) Marriage licenses, other forms and books used in connection with the issuance of marriage licenses shall be furnished by the State Board of Health on request of the clerks of the peace.

(b) Judges shall supply certificates in whatever form they see fit to such divorced persons as they believe should receive them under this chapter.

(c) Superintendents of asylums for the **insane** shall supply certificates in whatever form they see fit to such persons as they believe should receive them under this chapter.

(d) In the case of an adult person who is on probation or parole from any court or institution, the chief officer of such court or institution, or such person as such officer may appoint to give consent to marry, shall supply such consent in whatever form he deems advisable to such applicants for marriage license as he believes may properly marry.

(e) Marriage licenses, books and forms shall be as prescribed by the State Board of Health or in this chapter.

Each page of the Marriage Record Books for the use of clerks of the peace shall be numbered serially before delivery to the clerks of the peace.

Parenting

DEL. CODE ANN. tit. 13, § 908 (1987): Right to consent. The right to give consent shall be as follows:

(1) If the parental rights of the parent or parents with respect to the child have been terminated through legal termination of parental rights or through legal guardianship, the consent shall be granted by the organization or individual in whom the parental rights exist at the time of the filing of the petition:

a. If the child to be adopted has been abandoned, legal termination of parental rights must precede the filing of the petition for adoption. The consent to the adoption shall then be granted by the organization or individual in whom the parental rights exist;

b. If a parent or person in whom the parental rights exist is legally incompetent by virtue of **insanity** or **feeblemindedness**. legal termination of parental rights must precede the filing of the petition for adoption. The consent to the adoption shall then be granted by the organization or individual in whom the parental rights exist.

. . .

Segregated Education

DEL. CODE ANN. tit. 14 § 203 (1987): Special schools.

The State Board of Education and the school board of any local reorganized school district, either separately or jointly, may establish special schools for children who are in need of education not provided for in regular classes or schools. Such schools may include, but are not limited to, schools for persons who are **orthopedically handicapped, socially or emotionally maladjusted, autistic**, or **mentally handicapped, educable or trainable**, or for persons who suffer **hearing or speech impairment**, or for persons who are truant or insubordinate.

DEL. CODE ANN. tit. 14, § 2705 (1987): Exemption of mentally or physically handicapped children from compulsory attendance requirements.

(a) Other provisions of this title notwithstanding, a child may be exempted from § 2702 of this title upon request of the parent, guardian or other person legally having control of that child when the request is supported by written documentation of a physician, psychiatrist, psychologist or neurologist as the case may require. The request and documentation shall be addressed to the superintendent of schools of the school district in which the person resides indicating that the person is **mentally or physically handicapped** to such an extent that attendance in a school program is impracticable or unsafe.

. . .

DEL. CODE ANN. tit. 14, § 3122 (1987): Identification and reporting of **handicapped person**.

Each school district shall be required to identify, locate and evaluate, or reevaluate, any person residing within the confines of that school district who is **handicapped**, regardless of the severity of the handicap, and who is in need of special education and related services. The State Board of Education shall provide through rules and regulations that a practical method for carrying out this section be developed. The identification system so developed shall provide information concerning the time and method of the evaluation or reevaluation of the **handicapped person** and shall indicate the training, education or related services he or she is receiving and the location of that training, education or related services. The system shall further indicate any instance in which the person is not receiving training, education or related services and the reason for that situation. Nothing in this chapter or the rules and regulations issued thereunder shall authorize or require medical treatment of any person who objects, or, in the case of a minor, whose parent or guardian objects thereto on religious grounds.

DEL. CONST. art. X, § 1 (1999): Establishment and maintenance of free public schools; attendance.

Section 1. The General Assembly shall provide for the establishment and maintenance of a general and efficient system of free public schools, and may require by law that every child, **not physically or mentally disabled**, shall attend the public school, unless educated by other means.

Sterilization

33 Del. Laws, ch. 62 (1923): AN ACT to provide for the **sterilization** of certain **mental defectives**.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met:

Section 1. Upon the written application of the Board or Commission having control of any State or County Institution which has charge of **insane, feeble minded** or **epileptic** persons, to the State Board of Charities, the said Board is hereby authorized to appoint one physician and one alienist of recognized ability whose duty it shall be in conjunction with the Superintendent of the Institution where such persons are cared for to examine into the mental and physical condition of the persons mentioned in said written request who are legally confined in such institutions and should such physician, alienist and superintendent unanimously determine that **procreation is unadvisable** it shall then be lawful, with the written consent of the State Board of Charities for the Board or Commission having the custody of such person so examined, to have such an operation performed on such person for the **prevention of procreation** as shall be decided by said physician and alienist as safest and most effective provided however, that before such operation shall be performed it shall be the duty of the Board or Commission having the custody of such person to give at least 30 days notice to the husband or wife, parent or guardian if the same shall be known and can be located and if unknown to the person with whom such inmate last resided if such person can be located.

. . .

DEL. CODE ANN. ch. 57 (1953): Sterilization Of Mental Defectives.

SECTION 5701. Application of State or county institution; procedure:

(a) Upon the written application of the board or commission having control of any State or county institution which has charge of **insane, feeble-minded** or **epileptic** persons, to the State Department of Public Welfare, the Department may appoint one physician and one alienist of recognized ability who shall, in conjunction with the superintendent of the institution where such persons are cared for, examine into the mental and physical condition of the persons mentioned in the written request who are legally confined in such institutions.

(b) Should the physician, alienist and superintendent unanimously determine that **procreation is inadvisable** then, with the written consent of the Department of Public Welfare, the board or commission having the custody of the person examined, may have such an operation performed on such person for the **prevention of pro-creation** as is decided by the physician and alienist as safest and most effective.

(c) Before the operation is performed, the board or commission having the custody of the person, shall give at least 30 days' notice in writing to the husband or wife, parent or guardian, if the same are known and can be located, and if unknown, to the person with whom such inmate last resided if such person can be located.

SECTION 5702. Report of Mental Hygiene Clinic or Superintendent of State Hospital; procedure:

(a) Upon the report and recommendation of the Mental Hygiene Clinic of the Delaware State Hospital at Farnhurst or the Superintendent of the Delaware State Hospital that any person who is confined in any institution within the State, which is supported in whole or in part by the State, or by any county thereof, or who is at large, is **feeble minded, epileptic** or is a **chronic** or **recurrent insane person**, the board of trustees or other governing body of the

institution in which such person is confined, or the State Board of Trustees of The Delaware State Hospital, if such person is at large, may make written application to the Department of Public Welfare for the **sterilization** of such person.

(b) Upon receipt of the application, accompanied by a copy of the report and recommendation of the Mental Hygiene Clinic or the Superintendent of the Delaware State Hospital, the Department of Public Welfare may proceed with the sterilization of such person, in accordance with the provisions of section 5701 of this title. Where any **mental defective**, coming within the provisions of this section, is at large the examining commission to be appointed by the Department of Public Welfare, as provided in section 5701 of this title, shall consist of two physicians and one alienist of recognized ability.

Travel

DEL. CODE ANN. tit. 21, § 2707 (1987): License qualifications.

(a) A Class A license shall not be issued to any person under the age of 16 years. A Class B or Class C license shall not be issued to any person under the age of 18 years nor to any person 18 years of age or older who has not had at least 1 year's previous experience as an operator of a motor vehicle.

(b) The Department shall not issue an operator's or chauffeur's license to any:

. . .

(4) Applicant who has previously been adjudged **mentally ill** or an **idiot, imbecile** or **feebleminded** and who

has not at the time of such application been restored to competency by judicial decree or released from a hospital for the mentally ill or feebleminded upon a certificate of the superintendent that such person is competent or then unless the Department is satisfied that such person is competent to operate a motor vehicle with safety to persons and property;

(5) Person when in the opinion of the Department such person is afflicted with or suffering from such **physical or mental disability or disease** as will serve to prevent such person from exercising reasonable and ordinary control over a motor vehicle while operating the same upon the highways;

(6) Person who is unable to understand highway warning or direction signs in the English language;

(7) Person who is subject to losses of consciousness due to **disease of the central nervous system**, unless such person furnishes the Department with the certificate of 2 physicians duly licensed to practice medicine and surgery that such person's infirmity is under sufficient control to permit him or her to operate a motor vehicle with safety to person and property. Each person licensed to operate a motor vehicle on the basis of such certificate shall furnish the Department with a new certificate each year not later than the anniversary date of the issuance of the license and not earlier than 45 days before said date which certificate shall show that on the basis of an examination within said period a physician duly licensed to practice medicine and surgery has determined that the infirmity remains under sufficient control to permit the person to operate a motor vehicle with safety to person and property. Except as provided below, if such certificate is not received by the Department within 7 days after the anniversary date of the license, the Department shall revoke said license and shall notify its holder. The above provision of this paragraph notwithstanding, if 2 physicians duly licensed in this State furnish the Department with a

certificate that the disease no longer requires treatment and that the person can reasonably be expected to suffer no further losses of consciousness on its account, the Department may find that the person need no longer submit annual certificates of his or her competence to operate a motor vehicle and shall notify the person accordingly. The Department may at its discretion retain medical consultants to advise it. No physician who examines a person and provides a certificate in good faith in accordance with this paragraph shall be subject to any civil or criminal liability on account of having provided the certificate.

. . .

Voting

DEL. CONST. art. V, § 2 (1987): Qualifications for voting; members of the Armed Services of the United States stationed within State; persons disqualified; forfeiture of right.

Section 2. . . . [N]o **idiot** or **insane person**, pauper, or person convicted of a crime deemed by law felony, or incapacitated under the provisions of this Constitution from voting, shall enjoy the right of an elector; . . .

DEL. CODE ANN. tit. 15, § 1701 (1987): Qualifications for registration as qualified voter.

Every applicant for registration shall be a qualified voter if he is a citizen of this State of the age of 18 years and upwards, or who will be 18 years old on or before the day of the general election next succeeding his registration, and is a bona fide resident of this State. No person in the military, naval or marine service of the United States shall become a resident of this State by being stationed in any garrison, barrack or military or naval place or station within this State;

and no **idiot** or **insane person**, person convicted of a crime deemed by law a felony, or person who shall have been rendered incapable of voting by reason of violating § 7 of Article V of the Constitution of this State for 10 years next following his conviction and sentence thereunder, shall be a qualified voter.

DEL. CODE ANN. tit. 15, § 1703 (1987): Duty of officers to notify departments of facts suggesting voter disqualification.

. . .

(b) All state, county and municipal agencies shall have the duty, when it comes to their attention that a person is an **idiot** or **insane** or a pauper, to notify immediately the department of the county in which the person is a resident and the State Election Commissioner.

DISTRICT OF COLUMBIA

Employment

D.C. CODE ANN. § 1-607.2 (1981): Special provisions for the physically handicapped and the developmentally disabled.

The Mayor may develop rules and regulations which authorize the inquiry into bona fide job-related qualifications which may affect persons with **physical handicapped** or **developmental disabilities**, prior to appointing such individuals under the authority of § 1-610.4 (2). Physically **handicapped** or developmentally disabled person who apply for positions under the authority of subchapters VIII and IX of this chapter **may be examined to assure that their level of skills is sufficient to meet minimal job qualifications**.

D.C. CODE ANN. § 36-203 (1981): Minimum wage and overtime compensation; workweek; wage orders.

(a) (1) Except as otherwise provided in paragraph (2) of this subsection, every employer shall pay to each of his employees:

. . .

(4) All **handicapped** workers shall be paid at a rate not less than the minimum wage, except in those instances where a certificate has been issued by the United States Department of Labor authorizing the payment of less than the minimum wage to **handicapped** workers under 29 U.S.C. § 214 (c).

. . .

Managing Own Affairs

D.C. CODE ANN. § 45-720 (1981): Conveyance and assurance by and for mentally handicapped following court order.

It shall and may be lawful to and for any person or persons, being **idiot, lunatic, or non compos mentis**, or for the committee or committees of such person or persons, in his, her, or their name or names, by the direction of the chancellor, signified by an order made, upon hearing all parties concerned, on the petition of the person or persons, for whom such person or persons, being **idiot, lunatic, or non compos mentis**, shall be seized or possessed in trust, or the mortgagor or mortgagors, or of the person or persons entitled to the monies secured by or upon any lands, tenements, or hereditaments, whereof any such person or persons being **idiot, lunatic, or non comps mentis**, is or are, or shall be seized or possessed by way of mortgage, or of the person or persons entitled to the redemption thereof, to convey and assure any such lands, tenements, or hereditaments, in such manner as the chancellor shall, by such order so to be obtained, direct, to any other person or persons; and such conveyance or assurance, so to be had and made as aforesaid, shall be as good and effectual in law, to all intents and purposes whatsoever, as if the said person or persons being **idiot, lunatic, or non compos mentis**, was or were, at the time of the making such conveyance or assurance, of sane mind, memory, and understanding, and not **idiot, lunatic, or non compos mentis**, or had by him, her, or themselves executed the same. All and every person and persons being **idiot, lunatic, or non compos mentis**, and only trustee or trustees, mortgagee or mortgagees, as aforesaid, or the committee and committees of all and every such person and persons, being **idiot, lunatic, or non compos mentis**, and only such trustee or mortgagee as aforesaid, shall and may be empowered and compelled, by

such order so as aforesaid to be obtained, to make such conveyance or conveyances, assurance or assurances, as aforesaid, in like manner as trustees or mortgagees of sane memory are compellable to convey, surrender, or assign their trust estates or mortgages.

D.C. CODE ANN. § 6-1601 (1981): Establishment of register; purpose.

That the Mayor of the District of Columbia shall establish and maintain a register of **blind** persons residing in the District of Columbia. Such register shall, under regulations prescribed by the Council of the District of Columbia, provide information of such nature as will or may be of assistance in the planing of improved facilities and services for **blind** persons and in the restoration and conservation of sight.

D.C. CODE ANN. § 6-1602 (1981): Persons required to file reports; confidentially of register and reports; statistical abstracts.

Each: (1) Health, educational, and social service agency or institution operating in the District of Columbia and having in its care or custody (either full or part time), or rendering service to, any **blind** person; (2) physician and osteopath licensed or registered by the District of Columbia who has in his professional care for diagnosis or treatment such a person; and (3) optometrist licensed by the District of Columbia who, in the course of his practice of optometry, ascertains that a person is **blind shall report in writing to the Mayor the name, age, and residence of such person and such additional information as the Council may, by regulation, require for incorporation in the register** referred to in § 6-1601. Such register and reports shall not be open to public inspection. The Mayor may make available in the form of statistical abstracts or digests information

contained in such register and reports if the identity of persons referred to in such register or reports is not disclosed in such abstracts or digests.

Marriage

D.C. CODE ANN. § 30-103 (1981): Marriages void from date of decree; age of consent.

The following marriages in said District shall be **illegal**, and shall be void from the time when their nullity shall be declared by decree, namely: (1) The marriage of an **idiot** or of a person adjudged to be a **lunatic**; . . .

FLORIDA

Housing Discrimination

FLA. STAT. ANN. § 419.001 (West 1999): Site selection of community residential homes.

(1) For the purposes of this section, the following definitions shall apply:

(a) "Community residential home" means a dwelling unit licensed to serve clients of the Department of Children and Family Services, which provides a living environment for 7 to 14 unrelated residents who operate as the functional equivalent of a family, including such supervision and care by supportive staff as may be necessary to meet the physical, emotional, and social needs of the residents.

. . .

(2) Homes of six or fewer residents which otherwise meet the definition of a community residential home shall be deemed a single-family unit and a noncommercial, residential use for the purpose of local laws and ordinances. Homes of six or fewer residents which otherwise meet the definition of a community residential home shall be allowed in single-family or multifamily zoning without approval by the local government, provided that such homes shall **not be located within a radius of 1,000 feet of another existing such home** with six or fewer residents. Such homes with six or fewer residents shall not be required to comply with the notification provisions of this section; provided, however, that the sponsoring agency or the department notifies the local government at the time of home occupancy that the home is licensed by the department.

(3) (a) When a site for a community residential home has been selected by a sponsoring agency in an area zoned for multifamily, the agency shall notify the chief executive officer of the local government in writing and include in such notice the specific address of the site, the residential licensing category, the number of residents, and the community support requirements of the program. Such notice shall also contain a statement from the district administrator of the department indicating the need for and the licensing status of the proposed community residential home and specifying how the home meets applicable licensing criteria for the safe care and supervision of the clients in the home. The district administrator shall also provide to the local government the most recently published data compiled that identifies all community residential homes in the district in which the proposed site is to be located. The local government shall review the notification of the sponsoring agency in accordance with the zoning ordinance of the jurisdiction.

(b) Pursuant to such review, the local government may:

. . .

3. **Deny the siting of the home**.

(c) The local government shall not deny the siting of a community residential home unless the local government establishes that the siting of the home at the site selected:

1. Does not otherwise conform to existing zoning regulations applicable to other multifamily uses in the area.

2. Does not meet applicable licensing criteria established and determined by the department, including requirements that the home be located to assure the safe care and supervision of all clients in the home.

3. **Would result in such a concentration of community residential homes in the area in proximity to the site selected, or would result in a combination of such homes with other residences in the community, such that the nature and character of the area would be substantially altered. A home that is located within a radius of 1,200 feet of another existing community residential home in a multifamily zone shall be an overconcentration of such homes** that substantially alters the nature and character of the area. A home that is located within a radius of 500 feet of an area of single-family zoning substantially alters the nature and character of the area.

. . .

Institutionalization

FLA. STAT. ch. 13, § 1200 (1914): Petition.

When it is supposed that a person, resident of this State, is **insane**, either **non compos mentis** or sufficiently **devoid of reason** to be incapable of self control, a petition signed by five reputable citizens, not more than one of whom shall be a relative of the person, setting forth that he or she is to each of the petitioners personally known and that their knowledge of the mental condition of the subject is sufficient to justify the belief that he or she is insane, and asking that examination be instituted and made as provided by law, may be presented to the county judge or judge of the circuit court having jurisdiction.

FLA. STAT. ch. 12 § 1195 (1914): Destitute lunatics to be delivered to the Sheriff, and notify superintendent of asylum, who shall send nurse for such lunatic; provisos.

If it shall appear that said **lunatic** or **insane person** is destitute, then the judge shall deliver such lunatic or insane

person to the sheriff for safe keeping, and shall notify the superintendent of the Hospital for the Insane of the State of Florida, and said superintendent shall send a nurse or some suitable person for such lunatic or insane person who shall transport him or her to the Hospital for the Insane of the State of Florida, and deliver him or her to the officer having charge of the same for the purpose of his or her care, custody and treatment. . . .

1919 Fla. Laws ch. 787: *Be It Enacted by the Legislature of the State of Florida:*

Section 1. That there is hereby established in this State of Florida Farm Colony for **Epileptic** and **Feeble-Minded**, to be located at some place to be designated by the Board of Commissioners of Sate Institutions, where sufficient arable lands may be had or secured upon which such Colony may be developed on the Cottage plan.

. . .

Section 8. The purpose of the Florida Farm Colony for Epileptic and Feeble-Minded shall be recognized as three-fold:

1st. As an asylum for the care and protection of **epileptic** and **feeble-minded**.

2nd. As a school for the education and training of the **epileptic** and **feeble-minded**.

3rd. As a colony for the **segregation** and employment of the **epileptic** and **feeble-minded**.

. . .

Managing Own Affairs

FLA. STAT. § 744.3215 (1999): Rights of persons determined incapacitated.

. . .

(2) Rights that may be removed from a person by an order determining incapacity include the right:

(a) To marry.

(b) To vote.

(c) To personally apply for government benefits.

(d) To have a driver's license.

(e) To travel.

(f) To seek or retain employment.

. . .

Voting

FLA. CONST. art. VI, § 4 (1995): Disqualifications.

(a) No person convicted of a felony, or adjudicated in this or any other state to be **mentally incompetent**; shall be qualified to vote or hold office until restoration of civil rights or removal of disability.

GEORGIA

Access to Courts

GA. CODE ANN. § 24-9-5 (1988): Persons without use of reason incompetent.

Persons who do not have the use of reason, such as **idiots, lunatics during lunacy**, and children who do not understand the nature of an oath, shall be incompetent witnesses.

Family

GA. CODE ANN. § 99-209 (1933): Children brought into State for placement; bond; notification; reports.

No person shall bring or send into the State any child for the purpose of placing him or procuring his adoption, without first filing notice with the Board of Control. He shall file with the Board a bond to the State for each he intends to send or bring, approved by the Board, in the penal sum of $1,000, conditioned that he will not send or bring into the State any child who is incorrigible or **unsound in mind or body**; that he will remove any such child who becomes a public charge or who, in the opinion of the Board, becomes a menace to the community prior to his adoption or becoming of legal age; that the person with whom the child is placed shall be responsible for his proper care and training. . . .

GA. CODE ANN. § 31-1-3.1 (1990): Reporting handicapped new persons; referral to treatment and rehabilitative services.

(a) It is the intent of the General Assembly to ensure the registration by the department of **handicapped newborn persons** in order that all such persons might obtain referral

and other services provided by existing state agencies, department, other organizations, and individuals.

(b) As used in this Code section, the term "handicapped newborn persons" means a person less than 12 months old who is **deaf**, **blind**, or has a **serious congenital defect** as defined by the department.

(c) Except as otherwise provided, every public and private health and social agency and every physician authorized to practice medicine in this state shall report to the department the name of any person such agency or physician has identified as being a handicapped newborn person. The report shall be made within 48 hours after identification of that person and shall contain the name, age, address, type and extent of handicap, social security number, if any and such other information concerning that person as the department may require.

(d) The department shall establish procedures whereby a handicapped newborn person for whom a report is made under this Code section shall be referred with informed consent to appropriate pubic or private departments or agencies for treatment and rehabilitative services.

. . .

Institutionalization

1919 Ga. Laws 379:

. . .

Section 3. There shall be admitted to the Georgia Training School for Mental Defectives the following type of persons: Any person with **mental defectiveness** from birth or from an early age, or those that become **mentally**

defective from injury or disease so pronounced that he or she is unable to care for himself or herself and manage his affairs with ordinary prudence, and that he constitutes a **menace to the happiness of himself or of others in the community**, and therefore requires care, supervision and control, either for his own protection or for the protection of others, and yet who is not **insane** or of **unsound mind**. This type of persons shall be known and designated as "Mental Defectiveness." Should the institution at any time not be able tot accommodate all who shall under the terms of Section 5 of this Act be admitted thereto, it is hereby provided that **preference in admission shall be given to children and women of child-bearing age.**

. . .

Marriage

GA. CODE § 677 (1910): Performing marriage ceremony illegally.

If any minister of the gospel, judge, or justice shall join together in matrimony any man and woman, without a license or publication of banns, as provided by law, or where either of the parties within his own knowledge shall be an **idiot** or **lunatic** or subject to any other disability which would render such contract or marriage improper and illegal, he shall be guilty of a misdemeanor.

Sterilization

1937 Ga. Laws 414:

[Providing for the compulsory sterilization of feeble-minded persons] for the protection of . . . future generations.

Voting

GA. CONST. art. II, § 1 (1998): Exceptions to right to register and vote.

. . .

No person who has been judicially, determined to be **mentally** incompetent may register, remain registered, or vote unless the disability has been removed.

GA. CONST. art. II, § 2 (1976): Registration of Electors; Who Disfranchised.

The General Assembly may provide, from time to time, for the registration of all electors, but the following classes of persons shall not be permitted to register, vote or hold any office, or appointment of honor, or trust in this State, to-wit: 1st. Those who shall have been convicted in any court of competent jurisdiction of treason against the State, of embezzlement of public funds, malfeasance in office, bribery or larceny, or of any crime involving moral turpitude, punishable by the laws of this State with imprisonment in the penitentiary, unless such persons shall have been pardoned. 2nd. **Idiots** and **insane persons**.

HAWAII

Access to Courts

HAW. REV. STAT. ANN. § 612-4 (Michie 1999): Grounds of qualification and disqualification.

. . .

(b) A prospective juror is disqualified to serve as a juror if the prospective juror (1) is incapable, by reason of the prospective juror's **physical** or **mental disability**, of rendering satisfactory jury service;

. . .

Institutionalization

1919 Haw. Sess. Laws Act 102: An Act providing for the establishment and maintenance of a home for **feeble-minded persons**, and for commitment and admission thereto.

. . .

Section 4. The following persons, if not **insane**, are held to be **feeble-minded**: Those that are so **mentally deficient** that they are incapable of managing themselves and their affairs independently with ordinary prudence or of being taught to do so, and who require supervision, control, and care, for their own welfare, for the welfare of others, or for the welfare of the community.

. . .

Section 6. Any person found by a court of competent jurisdiction to be feeble-minded may be committed to said home.

. . .

1919 Haw. Sess. Laws Act 131:

Section 1. The sum of twenty-one thousand five hundred dollars . . . is hereby appropriated, out of any moneys in the treasury of the Territory of Hawaii not otherwise appropriated, to be expended by the department of public instruction for the purpose of the construction of a school and other buildings and of providing instruction, maintenance, and transportation, and other necessities arising in connection within the training and instruction of **blind, deaf, dumb**, and other **defective or mentally defective children**, as the department of public instruction may deem proper.

. . .

1919 Haw. Sess. Laws Act 198:

Section 1. The sum of eight thousand dollars ($8,000.00) is hereby appropriated from the general revenues of the Territory for the construction and furnishing of a building or ward for the care and control of **insane persons** at the **leper settlement** in the county of Kalawao.

. . .

Segregated Education

HAW. REV. STAT. ANN. § 298-10 (Michie 1988): Attendance of blind or deaf children.

Every parent or guardian having control over any partially or totally blind or deaf person, from six to eighteen years of age, who by reason of partial or total blindness or deafness is **unable to obtain an education in the public or private schools**, shall send them to the state school for deaf and blind for a period corresponding to the regular school year, except where such attendance is excused by the superintendent of education or by a judge of a circuit court were, in the superintendent's or judge's opinion, the facts warrant such action; provided that this shall not apply to cases where skilled private instruction is given to such persons for the same length of the each year.

Voting

HAW. CONST. art. II, § 2 (1993): No person who is **non compos mentis** shall be qualified to vote . . . .

IDAHO

Access to Courts

IDAHO CODE § 19-1003 (1987): Grounds for challenge to individuals jurors.

A challenge to an individual grand juror may be interposed for one or more of the following causes:

. . .

3. That he is **insane**.

. . .

Institutionalization

1911 Idaho Sess. Laws 86: To provide for the establishment, building and equipping of the Idaho State Sanitarium for the care, protection, treatment and education of feeble-minded and epileptic persons; and the admission, support, transfer and discharge of its inmates.

. . .

Section 1. That a school for **feeble-minded** and **epileptic** persons, to be known as "The Idaho State Sanitarium", is hereby authorized to be located and established, in the manner hereinafter provided, at some point or place within twenty (20) miles of the State Capital.

. . .

Section 32. All **feeble-minded persons** who are residents of the State, whose **defects** prevent them from

receiving proper instruction and training in the public schools, and all **feeble-minded** and **epileptic** persons who are residents of the State, whose **defects** prevent them from properly taking care of themselves, may be admitted to said institution under such regulations and conditions as the Board of Directors may provide, and the provisions of this Act.

Section 33. Whenever it appears by affidavit to the satisfaction of a magistrate of the county that any person within the county is **so feeble-minded as to prevent such person from receiving proper instruction and training in the public schools**, or that any person within the county is so feeble-minded or epileptic as to prevent such person from properly taking care of himself, he must issue and deliver to some peace officer for service a warrant directing that such person be arrested and taken before any Judge of a Court of record within the county for examination.

. . .

Section 40. The Judge, after such examination and certificate made, if he believes the person to be so feeble-minded as to be unable to receive the proper instruction and training in the public schools, or so feeble-minded or epileptic as to be unable to properly care for himself or herself, must make an order that such person be confined in the Idaho State Sanitarium.

. . .

1911 Idaho Sess. Laws 97: Authorizing and directing the state board of education to cause to be erected a building near Gooding, Idaho for the use of the deaf and blind and as a part of the Idaho State school for the Deaf and the Blind.

. . .

Be It Enacted By the Legislature of the State of Idaho:

Section 1. That the State Board of Education is hereby authorized and directed to cause to be erected a building near Gooding, Idaho, for the use of the deaf and blind, to be a part of the Idaho State School for the Deaf and the Blind, which building shall be suitable as a dormitory and to contain class rooms and a hospital.

. . .

1915 Idaho Sess. Laws 245: An Act to better provide for the care and detention of feeble-minded persons.

. . .

§ 3. When any person residing in this State shall be supposed to be **feeble-minded**, and by reason of such mental condition of feeble-mindedness and of social conditions, such as want of proper supervision, control, care and support, or other causes, **it is unsafe and dangerous to the welfare of the community, for him to be at large without supervision, control and care, any relative, guardian, or conservator or any reputable citizen of the county** in which such supposed feeble-minded person resides or is found, may, by leave of court first had and obtained, file with the clerk of either circuit court, or of the county court of the county in which such supposed feeble-minded person resides or is found, or with the clerk of a city court including the municipal court of Chicago, when the supposed feeble-minded person resides or is found in the city, a petition in writing, setting forth that the person therein named is feeble-minded, the fact and circumstances of the social conditions, such as want of proper supervision, control, care and support, or other causes making it unsafe or dangerous to the welfare of the community for such person to be at large without supervision, control or care, also the name and residence, or

that such name or residence is unknown to the petitioner, of some person, if any there be, actually supervising, caring for or supporting such person, and of at least one person if any there be legally chargeable with such supervision, care or support, and also the names and residences or that same are unknown of the parents or guardians.

. . .

Parenting

IDAHO CODE § 7902 (1919): Dependent children: powers of benevolent societies.

Any benevolent or charitable society incorporated under chapter 196, all of the officers and agents of said society to be residents of the state of Idaho, and having for its object the receiving, aiding caring for placing out for adoption and consenting to adoption or improving the condition of the orphan, homeless, neglected or abused children of this state shall have authority to receive, control, train, educate, aid, care for, dispose of, place out for adoption and consent to the adoption of children under 18 years of age under the following provisions.

. . .

2. When there is in the county any child under the age of 18 years.

. . .

d. For whom the parents, because of **mental incompetency**, **physical disability**, slothfulness, drunkenness or the habitual use of narcotics or other dissipation or their immoral practices or standards are failing and will probably continue to fail to care and provide for[.]

. . .

Education

IDAHO CODE § 33-3407 (1990): Definition of deaf and blind – Examination of applicants – Admission and release of pupils.

All children between the ages of six (6) and twenty-one (21) years who are **too deaf or too blind to be educated in the public schools**, shall be deemed deaf or blind for the purposes of this chapter.

Children who are under the six (6) years, but otherwise qualified, may be admitted, when, in the discretion of the superintendent but subject to the approval of the board of trustees, they are proper subjects to receive training and education available in the school and the facilities of the school are adequate for proper care, training and education. When it has been ascertained by the superintendent that any pupil has ceased to make progress, or is no longer being benefited by attending the school, upon recommendation of the superintendent and the approval of the board trustees such pupil may be released from the school.

The board of trustees is authorized to provide for the careful examination of all applicants for admission to the school, and the expense of such examination is a lawful use of the moneys available to the board of trustees.

Sterilization

1925 Idaho Sess. Laws 358: An act to create a state board of eugenics; to provide for the sterilization of all feeble-minded, insane, epileptics, habitual criminals, moral degenerates and

sexual perverts who are a menace to society, and providing the means for ascertaining who are such persons.

Be It Enacted by the Legislature of the State of Idaho:

Section 1. How Constituted; Secretary. There is hereby established and constituted for the State of Idaho a "State Board of Eugenics". . . .

Section 2. Quarterly reports to board, by heads of institutions of departments. It shall be, and it is hereby declared, the duty of the State Public Health Adviser, the Superintendent of the Northern Idaho Sanitarium, the Superintendent of the Idaho State Sanitarium, the Superintendent of the Idaho Industrial Training School and the warden of the Idaho State Penitentiary to report quarterly, on the first of January, April, July and October, to the State Board of Eugenics, all persons, male or female, who are **feeble-minded**, **insane**, **epileptic**, habitual criminals, moral degenerates and sexual perverts, who are, or in their opinion are **like to become, a menace to society**.

Section 3. Examination of persons reported; sterilization. It shall be the duty of the State Board of Eugenics to examine into the innate traits, the mental and physical conditions, the personal records and the family traits and histories of all of the persons so reported, so far as the same can be ascertained, and for this purpose said Board shall have the power to subpoena witnesses, which subpoena shall be issued by said Board and served in like manner and with like effect as subpoenas in criminal cases in the District Court, and any member of said Board may administer an oath to any witness whom it is desired to examine in such proceeding; and if in the judgment of a majority of said proceeding; and if in the judgment of a majority of said Board **procreation by such person would produce a child or children having an inherited tendency to feeble-**

mindedness, insanity, epilepsy, criminality or degeneracy, or **who would probably become a social menace or ward of the State**, and there is no probability that the condition of such person so investigated and examined will improve to such an extent as to avoid such consequences, then it shall be the duty of such board to make an order embodying its conclusions with reference to such person in said respects and specifying such a type of sterilization as may be deemed by said Board best suited to the condition of said person and most likely to produce the beneficial results in the respects specified in this section.

. . .

Section 5. Purpose and objects to be sought. Said investigation, findings and order of said Board of shall be made with the purpose in view of securing a betterment of the physical, mental, neural or psychic condition of the person, or to **protect society from the acts of such person, or from the menace of procreation by such person**, and no in any manner as a punitive measure.

Section 6. Operations to be performed by consent of persons concerned. If any person, whose condition has been examined and reported upon by said Board, as hereinbefore provided, shall consent in writing to have the operation specified in the order of said Board performed, such operation shall thereupon be performed upon said person by or under the direction of the State Pubic Health Adviser. All such operations shall be performed with due regard for the physical condition of the person upon whom it is performed and in a safe and humane manner. In case the person to be operated upon be feeble-minded or insane, the consent hereinbefore in this section mentioned shall be construed to mean not only the written consent of the person to be operated upon but, in addition thereto, the written consent of such person's legal guardian, or if such person have no legal

guardian, then the written consent of such person's nearest known kin or personal friend within the State of Idaho.

Section 7. If consent not given, trial to be had. If any such person shall not consent, within twenty days from the service of such order upon him, to the performance of such operation, said Board of Eugenics, through its secretary or other officer having charge of its records and files, within fifteen days thereafter, or such further time as the court or judge thereof may allow, shall file a transcript of its proceedings and of its said findings, conclusions and order with reference to said person with the Clerk of the District Court of the county in which such person resides or may be found. Upon the filing of such findings, conclusions and order with the said clerk, he shall issue a summons directed to such person and deliver the same to the sheriff, together with a person and deliver the same to the sheriff, together with a copy of such order prepared and certified by him, and it shall be the duty of said sheriff to forthwith serve said summons and copy of order upon said person therein named, who shall be required, within twenty days after such service upon him, to enter his appearance in writing with the Clerk of the District Court in such case or by appearing in person before said clerk, who shall thereupon enter the appearance of such person in such proceeding. If he be an insane or feeble-minded person such appearance may be made by his guardian, if he have one; if not, then by his nearest of kin or near friend. If he be in any State Institution, facilities shall be furnished him for making such appearance.

Section 8. Court procedure. The issue thereby raised shall be whether the findings and conclusions of said Board shall be affirmed by the court, and shall be tried in the District Court of such county as a special proceeding in the same manner as a civil action at law in which the State of Idaho shall be the plaintiff and the person so summoned shall be the defendant. Each party shall have the same rights as to

production of evidence and the case shall be tried in the same manner as any other civil action. In all such cases the Prosecuting Attorney of the county where such proceedings are tried shall appear and prosecute such action on behalf of the State. If the defendant has no attorney and he is unable to secure one, the Court shall appoint an attorney from the membership of the bar of said county to conduct his defense, and appeal, if any, be taken as hereinafter provided, and such attorney shall be compensated by the State, upon order of the Court. Upon the request of either party to such proceeding all questions of fact shall be tried by a jury and the Court in every instance shall have the testimony fully reported at the expense of the State.

Section 9. Enforcement of Judgment. If the finds and conclusions of the Board of Eugenics shall be affirmed by the court, the defendant shall be immediately placed in custody by the sheriff of said county, and may be admitted to bail by the Court, who shall fix the amount of such bail, and if not so admitted to bail, shall be held until the operation provided in such findings be performed.

. . .

Voting

IDAHO CONST., art. VI, § 3 (1889):

Section 3. **No person is permitted to vote, serve as juror, or hold any civil office who is under guardianship, idiotic or insane**, or who has, at any place, been convicted of treason, felony, embezzlement of the public funds, bartering or selling or offering to barter or sell his vote, or purchasing or offering to purchase the vote of another, or other infamous crime, and how has not be restored to the rights of citizenship, or who, at the time of such election, is confined in prison on conviction of a criminal offense, or who is a

bigamist or polygamist, or is living in what is known as patriarchal, plural or celestial marriage, or in violation of any law of this State, or of the United States, forbidding any such crime; or who, any manner, teaches, advises, counsels, aids, or encourages any person to enter into bigamy, polygamy, or such patriarchal, plural, or celestial marriage, or to live in violation of any such law, or to commit any such crime; or who is a member of or contributes to the support, aid, or encouragement of any order, organization, association, corporation or society, which teaches, advises, counsels, encourages, or aids any person to enter into bigamy, polygamy or such patriarchal, or plural marriage, or which teaches or advises that the laws of this State prescribing rules of civil conduct, are not the supreme law of the State; nor shall Chinese, or persons of Mongolian descent, not born in the United States, nor Indians not taxed, who have not severed their tribal relations and adopted the habits of civilization, either vote, serve as jurors, or hold any civil office.

IDAHO CODE § 33-403A (1990): Assistance to voter.

a. If any elector is unable, due to physical disability or other handicap, to enter the polling place, **he may be handed a ballot outside the polling place** but within forty (40) feet thereof by one (1) of the election clerks, and in his presence but in a secret manner, mark and return the same to such election officer who shall proceed to deposit the ballot as provided by law.

b. If any elector, who is unable by reason of physical disability or other handicap to record his vote by personally marking his ballot and who desires to vote, then and in that case such elector shall be given assistance by the person of his choice or by one (1) of the election clerks. Such clerk or selected person shall mark the ballot in the manner directed by the elector and fold it properly and present it to the elector

before leaving the voting compartment or area provided for such purpose. The elector shall then present it to the judge of election who shall deposit the ballot as provided by law.

IDAHO CONST. art. VI, 33 (1993): Disqualification of certain persons.

No person is permitted to vote, serve as a juror, or hold any civil office who is under guardianship, or who has, at any place, been convicted of a felony, and who has not been restored to the rights of citizenship, or who, at the time of such election, is confined in prison on conviction of a criminal offense.

ILLINOIS

Employment

48 ILL. COMP. STAT. ANN. 1010/10(b) (West 1988): Regulations – Handicapped workers.

In order to prevent curtailment of opportunities for employment, avoid undue hardship, and safeguard the minimum wage rate under this Act, the Director may also issue regulations providing for the employment of **handicapped workers** at wages lower than the wage rate applicable under this Act. . . .

Institutionalization

1913 Ill. Laws 131: An act providing for the creating, locating, constructing and administering of a State colony for the care and treatment of epileptics.

Whereas, there are, in Illinois, at least 10,000 persons of all ages and conditions, suffering from epilepsy; and

Whereas, such persons are proper and fit subjects for State care and treatment; and

Whereas, **by reason of the very nature of this disease such persons are prevented from employing their time with profit, and the young epileptic is debarred from the public private schools because of such misfortune, and the epileptic at large suffers grave physical injuries; and**

Whereas, In colony life the epileptic finds safe employment, opportunity for improving his condition, mental and physical, and protection; therefore.

§ 1. Be it enacted by the people of the State of Illinois, represented in the General Assembly: That there be and is hereby created and established a State Colony for Epileptics to be administered under the direction of the Board of Administration in accordance with the terms and provisions of an act of the General Assembly entitled, "an Act to revise the laws relating to charities," approved June 11, 1912, in force July 1, 1912. Said colony shall be known and designated as provided in said act, or by such other name and designation as 'may be given to it by said Board of Administration. The said colony shall be located upon ground to be selected by the Board of Administration. The said colony shall be located upon ground to be selected by the Board of Administration, as hereinafter provided. It shall be the duty of said board to so locate said colony that its inmates may be employed a maximum period each year in the open air.

. . .

§ 4. The object of said colony shall be to secure for *bona fide* resident epileptics of Illinois a place of employment, instruction, treatment and custody. Said colony shall be so planned, arranged and constructed that there shall be adequate segregation of the sexes, separation of children from adults, and proper classification of the inmates.

. . .

§ 6. The superintendent and members of the staff of said colony shall have the same access and enjoy the same opportunities for study, research and information at the State Psychopathic Institute as are enjoyed by the superintendent

and members of the staffs of State hospitals for insane; and it shall be the duty of the Board of Administration to make the necessary provisions for research and study in epilepsy, its causes, methods of treatment, and probable measures of prevention.

§ 7. Applicants, residents of Illinois, may be admitted to said colony by either of the following methods: 1. Upon voluntary application to the superintendent, substantiated by proof that said applicant is in need of care and treatment of said colony, such proof to consist of certificates from two physicians setting forth that said applicant for admission is an epileptic. Such certificates shall be under oath and made within thirty days next preceding the filing of such application. Physicians making such certificates shall be duly licensed to practice medicine or surgery in the State of Illinois, and shall have been in the actual practice of their profession. The application, certificate and other forms relating to the admission shall be in accordance with the rules and forms prescribed by the Board of Administration. 2. Any parent, relative, conservator, guardian, or **reputable citizen**, may file a petition in any court of record to the county where the alleged epileptic resides, setting forth that the person is suffering from epilepsy and is a proper subject for the care and custody of said colony. Such court shall make an inquiry in term time or vacation into the mental and nervous condition of such person to determine whether he is or is not an epileptic; and if it is found upon the evidence of two or more reputable physicians that such person is an epileptic, said court may order the admission of such a person, and it shall be the duty of the superintendent to receive him or her and record him or her among the inmates of said colony: *Provided*, that if such alleged epileptic is an adult his consent in writing shall be first obtained, and if a minor, or under any other disability, the consent in writing of the parent, guardian or conservator shall be first obtained: *And, provided* that in

case there is no room in said colony, the said person shall wait his or her turn. County quotas of inmates to said colony shall be based upon population to be determined by the Board of Administration.

. . .

It shall be unlawful to keep in said colony any insane person, and any such insane person who shall wrongfully obtain admission shall be returned to the county for which he or she was a Resident before admission.

1915 Ill. Laws 245: An Act to better provide for the care and detention of feeble-minded persons.

§ 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly*: The words "feeble-minded person" in this act shall be construed to mean any person **afflicted with mental defectiveness** from birth or from any early age, **so pronounced that he is incapable of managing himself and his affairs, or of being taught to do so**, and requires supervision, control and care for his own welfare, or for the welfare of others, or for the welfare of the community, who is not classifiable as an "insane person".

. . .

§ 3. When any person residing in this State shall be supposed to be **feeble-minded, and by reason of such mental condition of feeble-mindedness, and of social conditions, such as want of proper supervision, control, care and support, or other causes, it is unsafe and dangerous to the welfare of the community for him to be at large without supervision, control and care**, any relative, guardian or conservator of **any reputable citizen** of the county in which such supposed feeble-minded person resides or is found, may, by leave of court first had and obtained, file with the clerk of either the circuit court, or of

the county court of the county in which such supposed feeble-minded person resides or is found, or with the clerk of a city court, including the municipal court of Chicago, when the supposed feeble-minded person resides or is found in the city, a petition in writing, setting forth that the person therein names is feeble-minded, the fact and circumstances of the social conditions, such as want of proper supervision, control, care and support, or other causes, making it unsafe or dangerous to the welfare of the community for such person to be at large without supervision, control or care; also the name and residence, or that such name or residence is unknown to the petitioner, of some person, if any there be, actually supervising, caring for or supporting such person, and of at least one person if any there be legally chargeable with such supervision, care or support, and also the names and residences or that same are unknown of the parents or guardians.

ILL. REV. STAT § 22 (1916):

. . .

§ 4. The object of the institutions for the education of the **deaf and dumb**, and the **blind**, and of the **Asylum of Feeble-minded**, shall be to promote the intellectual, moral and physical culture of the classes of persons indicated in their titles, respectively, and to fit them, as far as possible, for earning their own livelihood and for future usefulness in society.

. . .

Marriage

89 ILL. COMP. STAT § 2 (1916):

No **insane person** or **idiot** shall be capable of contracting marriage.

Segregated Education

122 ILL. COMP. STAT. ANN. 670/10 (West 1990): Boys received – Support.

...[A]ny training school for boys in this state shall receive into such school all boys **not idiotic** and not afflicted with a contagious disease. . . .

122 ILL. COMP. STAT. ANN. 657/12 (West 1988): Imbeciles not admitted.

. . .

§ 12. **No imbecile**, or **idiot girl**, or one incapacitated for labor, nor any girl having any infectious, contagious or incurable disease, shall be committed or received into any industrial school for girls in this state.

. . .

INDIANA

Housing Discrimination

IND. CODE §16.7-5.5-3 (1990): Modification of property not required.

Section 3. Nothing in this chapter shall require any person renting, leasing or providing for compensation real property to modify his property in any way to provide a higher degree of care for a handicapped person than for one who is not handicapped.

Institutionalization

1919 Ind. Acts 480: An act to provide for the establishment and government of an Indiana farm colony for feeble-minded, making appropriation therefor, providing for the commitment and transfer of patients thereto, and their care and custody therein.

Farm Colony for Feeble-Minded

Section 1. Be it enacted by the General Assembly of the State of Indiana, That there shall be **established in this state a farm colony for the feeble-minded**. In the establishment of this institution, the general assembly recognizes the duty of the state to provide proper care for such of its citizens as are **feeble-minded**, and are therefore **unable properly to care for themselves**.

Section 11. Such **feeble-minded persons** shall be committed to said **colony for feeble-minded** by the judge of the circuit courts in the various counties and any such case shall be heard in chambers. A **reputable citizen** of the

county from which an application is to be made, shall make an application, under oath setting forth information substantially as follows: The age, sex, race, legal settlement, residence, and general mental and physical condition of the applicant, whether such applicant is under the charge of a guardian or parents, and, where known, the **cause and duration of the feeble-minded condition** and such other facts regarding the applicant's personal and family history as the board of trustees of the farm colony may require; which facts shall be submitted to the judge of the circuit court having jurisdiction over that county, together with a certificate of a reputable physician that the applicant is admissible under the rules of the board of trustees, and is free from any infectious or contagious disease and from vermin. When such statements shall have been filed, the said judge shall appoint two medical examiners who shall be physicians of not less than three (3) years' experience in the general practice of medicine and surgery, and not related to the person for whom application is made by consanguinity or marriage. It shall be the duty of said medical examiners carefully and separately to examine said person for whom application is made and separately certify in writing to said judge whether said person is a **feeble-minded person**. In this discretion the judge may call additional witnesses until fully satisfied of the condition as to **feeble-mindedness** of the person under inquiry. If it shall appear to the judge that the person is feeble-minded, he shall enter an **order of commitment** in the proper record, at the same time directing the clerk of the circuit court to forthwith apply to the superintendent of the farm colony for the admission of said person to said farm colony and to transmit with said application to said superintendent, for his information, copies of all statements and certificates submitted, certified to be under the seal of the court. Upon receiving said application and transcript of statements and certificates, said superintendent of said farm colony shall immediately determine upon the information therein contained, whether or

not the case is admissible; and if so and if there shall be room within the institution of which he is superintendent, he shall at once notify the proper clerk of the acceptance of the application for admission. Should thee be no room in the farm colony, the superintendent shall suspend the application for further consideration when vacancies do occur. No person making application or committal of a feeble-minded person under this act shall be liable for any of the costs arising therefrom.

Sterilization

IND. CODE § 22-1601 (1950):

Whenever the superintendent of any hospital or other institution of this state, or of any county in this state, which has the care or custody of **insane**, **feeble-minded** or **epileptic persons**, shall be of the opinion that it is for the best interests of the patient and of society that any inmate of the institution under his care should be **sexually sterilized**, such superintendent, if a lawfully licensed physician and surgeon, is hereby authorized to perform, or cause to be performed by some capable physician or surgeon, an operation or treatment of sterilization on any such patient confined in such institution afflicted with **hereditary forms of insanity that are recurrent, epilepsy, or incurable primary or secondary types of feeble-mindedness:** Provided, That such superintendent shall have first complied with the requirements of this act.

. . .

IOWA

Institutionalization

1876 Iowa Acts 145-48: An Act to Provide for the Organization and Support of an Asylum at Glenwood, in Mills County, for Feeble Minded Children.

. . .

Section 1. That there is hereby established at Glenwood, in Mills county, in this state, an institution to be known as the **asylum for feeble minded children**, and the property of the state of that point, including buildings and grounds heretofore used for the western branch of the Iowa soldiers' orphans' home, shall be used for that purpose.

. . .

Section 2. The purpose of this establishment are to care for, support, train and instruct **feeble minded children**.

. . .

Section 5. There shall be received into the asylum **weak minded children** between the age of seven and eighteen years.

. . .

1902 Iowa Acts 73: *Be it enacted by the General Assembly of the State of Iowa*:

Section 1. Admission. That all **feeble-minded woman** under forty-six years of age who are residents of the

state of Iowa may be admitted to the institution for feeble-minded children at Glenwood.

. . .

1909 Iowa Acts 171: An Act to provide for feeble-mined men at Glenwood and the maintenance thereof.

Section 1. Admission of Feebleminded men. That all **feebleminded men** under 46 years of age who are residents of the state of Iowa, may be admitted to the institution for **feeble-minded children** at Glenwood.

. . .

IOWA CODE § 2727-a93 (1915): Establishment-object-government.

That there is hereby established the state hospital and **colony for epileptics**. The object of the colony shall be the custody, care and treatment of epileptics and the scientific study of epilepsy.

. . .

IOWA CODE § 222-1 (1954): Feeble-minded defined.

The words "feebleminded person" in this chapter shall be construed to mean any person afflicted with **mental defectiveness** from birth or from an early age, so pronounced that he is incapable of controlling himself and his affairs and requires supervision, control, and care for his own welfare, or for the welfare of others, or for the welfare of the community, and who is not classifiable as an "insane person" within the meaning of the provisions of the chapters of this title relating to the insane.

IOWA CODE § 222-18 (1954): Guardianship or commitment.

If it be found that said person is **feeble-minded**, and that it will be conducive to the welfare of such person and to the community to place such person under guardianship, or to commit such person to some proper institution for treatment, the court or judge shall, by proper order:

1. Appoint a guardian of the person of such person, provided no such guardian has already been appointed.

2. **Commit** such person to any **state institution for the feeble-minded**.

3. Commit such person to a private institution of this state, duly incorporated for the care of such persons, and approved by the board of control, provided such institution is willing to receive such person.

IOWA CODE § 223.1 (1954): Objects.

The hospital for **epileptics** and schools for **feeble-minded**, hereinafter in this chapter referred to as "hospital", shall be maintained for the purpose of securing humane, curative, and scientific care and treatment of epileptics, and for the training, instruction, care, and support for **feeble-minded residents** of this state.

IOWA CODE ANN. § 670.2 (1990): Petition – appointment.

When a petition, verified by affidavit, is presented to the district court that any inhabitant of the county is:

1. A **mental retardate**, **lunatic**, or person of **unsound mind**;

2. . . . and the allegations of the petition are satisfactorily proved upon the trial, the court may appoint a guardian of the property of such person.

Marriage

IOWA CODE ANN. § 595.3 (West 1988): License.

Previous to the solemnization of any marriage, a license for that purpose must be obtained from the clerk of the district court. Such license must not be granted in any case:

. . .

5. Where either party is **mentally ill** or **retarded,** a **mental retardate**, or under guardianship as an **incompetent**.

Segregated Education

IOWA CODE ANN. § 299.18 (West 1988): Education--state school.

Children over seven and under nineteen years of age who are so **deaf** or **blind** or severely **handicapped** as to be **unable to obtain an education in the common schools** shall be sent to the proper state school therefore, unless exempted, and any person having such a child under the person's control or custody shall see that such child attends such school during the scholastic year.

Sterilization

IOWA CODE § 145 (1954): State Board.

A state board of eugenics is hereby created . . . .

IOWA CODE § 145.2 (1954): Quarterly reports of defective.

Each member of said board, and the warden of the penitentiary and the warden of the men's reformatory, shall, annually, on the first day of January, April, July and October, report to the state board of eugenics the names of all persons, male or female, living in this state, of whom he or she may have knowledge, who are **feeble-minded**, **insane**, syphilitic, habitual criminals, moral degenerates, or sexual perverts and who are **menace to society**.

IOWA CODE § 145.9 (1954): Order for sterilization.

If in the judgment of a majority of said board **procreation by such persons would produce a child or children having an inherited tendency to feeble-mindedness, syphilis, insanity, epilepsy,** criminality, or degeneracy, or who would probably become a social menace or ward of the state, and there is no probability that the condition of such person so investigated and examined will improve to such an extent as to avoid such consequences, then it shall be the duty of such board to make an order embodying its conclusions with reference to such person in said respects and specifying such a type of **sterilization** as may be deemed by said board best suited to the condition of said person and most likely to produce the beneficial result sin the respects specified in this section, be nothing contained in this chapter shall be construed to authorize castration or removal of sound organs from the body.

1911 Iowa Acts 144-45: An act to prevent the procreation of habitual criminals, idiots, feeble-minded and imbeciles.

Section 1. Unsexing of criminals, idiots, etc.

That is shall be the duty of managing officer of each public institution in the state, intrusted with the custody or care of criminals, **idiots**, **feeble-minded**, **imbeciles**, drunkards, drug-fiends, epileptics and syphilitics, and they

are hereby authorized and directed to annually, or oftener, examine into the mental or physical condition of the inmates of such institutions, with a view of determining **whether it is improper or inadvisable to allow any of such inmates to procreate**; and to annually, or oftener, call into consultation the members of the state board of parole. The member of such board and the managing officer and the surgical superintendent of such institution shall judge of such matters. If a majority of them decide that **procreation by any such inmate would produce children with a tendency to disease, crime, insanity, feeble-mindedness, idiocy or imbecility**, and there is no probability that the condition of any such inmate so examined will improve to such an extent as to render procreation by any such inmate advisable, or if the physical or mental condition of any such inmate will be materially improved thereby, or if such inmate is an epileptic or syphilitic, or gives continued evidence while an inmate of such institution that he or she is a moral or sexual pervert, then the surgeon of the institution shall perform the operation of **vasectomy** or **litigation of the fallopian tubes**, as the case may be, upon such person.

. . .

Voting

IOWA CONST. art. II, § 5 (1906): Right of suffrage.

Section 5. No **idiot** or **insane person**, or person convicted of any infamous crime, shall be entitled to the privileges of an elector.

IOWA CONST. art. II, § 5 (1989): Disqualified persons.

No **idiot**, or **insane person**, or person convicted of any infamous crime, shall be entitled to the privileges of an elector.

KANSAS

Institutionalization

1881 Kan. Sess. Laws 74: An Act to establish an asylum for the education of the feeble-minded and imbecile youth, and making an appropriation for the maintenance of the same.

Be it enacted by the Legislature of the State of Kansas:

Section 1. That there shall be established and organized, as soon as practicable, and within six months from the passage of this act, **an institution for the education of idiotic and imbecile children, to be denominated the Kansas state asylum for idiotic youth**.

. . .

Section 6. As soon as suitable accommodations are made, as provided in section three of this act, the trustees shall admit into said asylum all **idiotic** and **imbecile** youths who have been residents of the state of Kansas six months, and are not over fifteen years of age, and who are **incapable of receiving instruction in the common schools**.

. . .

Marriage

KAN. STAT. ANN. § 6155 (1915): **Marriage of person who is epileptic, imbecile, feeble-minded or afflicted with insanity unlawful, except female person over forty-five years; marriage of children of insane parents.** No woman under the age of forty-five years, or man of any age, except he marry a woman over the age of

forty-five years, either of whom is epileptic, imbecile, feeble-minded or afflicted with insanity, shall hereafter intermarry or marry any other person within this state. **It shall be unlawful for any person to marry any such feeble-minded, imbecile or epileptic person, or any one afflicted with insanity. Children born after a parent was insane shall not marry except under the above-named conditions, unless the parent or parents of such children shall have been discharged from the state hospital for insane more than nine months before the birth of the child as cured and remained cured for a period of twenty years after such discharge.**

Segregated Education

KAN. STAT. ANN. § 72-853 (1990): Program for education of **deaf-blind** or otherwise severely handicapped children by state department; expenditures; definitions.

The state department of public instruction is hereby authorized to expend available funds for the purpose of sending children who are **deaf-blind**, or otherwise severely handicapped to any facility, school, or institution, within or without the state of Kansas, providing a qualified program of education for such children. Such funds may be spent for evaluation and diagnosis, room, board, tuition, transportation, and other items which are necessarily relevant to the education of such children. In interpreting and carrying out the provisions of this act, the words "**deaf-blind** children" whenever used, will be construed to include any child of educable mind whose combinations of handicaps of **deafness** and **blindness** prevents him from profiting satisfactorily from educational programs provided for the **blind** child or the **deaf** child; and the words "otherwise severely handicapped children," wherever used, will be construed to include any child of educable mind whose handicap or combination of

handicaps prevents him from profiting satisfactorily from educational programs provided through a sponsoring public school district in this state.

Sterilization

1913 Kan. Sess. Laws 525: An Act to prevent the procreation of habitual criminals, idiots, epileptics, imbeciles, and insane, and providing a penalty for the violation thereof.

Be it enacted by the Legislature of the State of Kansas:

SECTION 1. That is shall be the **duty** of the managing officers of all state institutions of this state entrusted with the care or custody of habitual criminals, **idiots**, **epileptics**, **imbeciles**, and **insane** and they are hereby **authorized and directed** to obtain the advice and professional services of competent surgical assistants, who, jointly with the physician or surgeon in charge of the institution in which any of such inmates shall be, shall constitute the authority whose duty it shall be to examine such inmate or inmates of the several institutions as are deemed to be **improper and inadvisable to allow to procreate**. Such authority shall examine the physical and mental condition of such inmate or inmates, the history thereof so far as can be ascertained, and **if, in the judgment of such authority, procreation by any such inmate or inmates would produce children with an inherited tendency to crime, insanity, feeble-mindedness, epilepsy, idiocy, or imbecility, and there is no probability that the condition of any such inmate or inmates so examined will improve to such an extent as to render procreation by any such inmate or inmates advisable, or if the physical or mental condition of any such persons will be materially improved thereby**, then said authority shall report their conclusions with a recommendation to the district court or any court of competent jurisdiction in and for the district from which such inmate or inmates has been

committed to such institution or institutions. The court shall thereupon hear and determine the matter and if satisfied that the subject is an habitual criminal within the meaning of this act, or is **insane**, an **idiot**, **imbecile**, or an **epileptic**, and that the purposes of this act will be accomplished by such order shall adjudge that such operation shall be performed and shall appoint one of the authority signing such report to perform the operation of vasectomy or oöphorectomy, as the case may be, upon such person.

. . .

SECTION. 3. **Any managing officers herein charged with any duty specified in section 1, who shall fail, neglect or refuse for sixty days or more in the performance thereof, shall be guilty of a misdemeanor and subject to a fine of not more than $100,000 or imprisonment in the county jail for not more than thirty days, or both such fine and imprisonment.**

KAN. STAT. ANN. § 76-149 (1949): **Sterilization of inmates of institutions.**

That the warden of the state penitentiary, the superintendent of the Hutchinson reformatory, the superintendent of each of the state hospitals for the insane, the state hospital for epileptics, the state home for feeble-minded, or the state industrial school for girls, shall certify in writing to the governing board of the institution of which he or she is warden or superintendent, **that he or she believes that the mental or physical condition of any inmate would be improved thereby or that procreation by such inmate would be likely to result in defective or feeble-minded children with criminal tendencies, and that the condition of such inmate is not likely to improve so as to make procreation by such person desirable or beneficial to the state, it shall be lawful to perform a surgical operation for**

the sterilization of such inmate as hereafter provided, and shall not render the board of examiners, its members or any person participating in the operation liable either civilly or criminally.

. . .

Travel

KAN. STAT. ANN. § 38-315 (1990): Unlawful placing or receiving of child from another state; penalty.

No association which is incorporated under the laws of any other state than the state of Kansas shall place any child in any family home within the boundaries of the state of Kansas, either with or without indenture or for adoption, unless the said association shall have furnished the board of administration with such guaranty as they may require that **no child will be brought into the state of Kansas by such society or its agents having any contagious or incurable disease, or having any deformity, or being of feeble mind or vicious character**, and that said association will receive and remove from the state any child brought into the state of Kansas by its agent which shall become a public charge within the period of five years after being brought into the state. Any person who shall receive to be placed in a home, of shall place in a home, any child in behalf of any association incorporated in any other state than the state of Kansas which shall not have complied with the requirements of this act shall be imprisoned in the county jail not more than thirty days, or fined not less than five dollars or more than one hundred dollars, or both, in the discretion of the court.

KAN. STAT. ANN. § 39-111 (1990): State legal residence requirements; waiver, when.

No person shall be admitted to a state hospital, a state hospital and training center, Kansas neurological institute, an institution for the education of the **deaf**, an institution for the education of the **blind**, or to a state hospital or sanatorium for tuberculosis, who has not lived in the state of Kansas at least one year continuously immediately prior to application for admission thereto.

. . .

Voting

KAN. CONST. art. V (1859):

Section 1. Every white male person of twenty-one years and upwards, belonging to either of the following classes – who shall have resided in Kansas six months next preceding any election, and in the township or ward in which he offers to vote at least thirty days next preceding such election – shall be deemed a qualified elector.

. . .

Section 2. **No person under guardianship, *non compos mentis*, or insane**; . . . **shall be qualified to vote or hold office in this state**, until such disability shall be removed by a law passed by a vote of two-thirds of all the members of both branches of the legislature.

. . .

KAN. CONST. art. V (1859): Disqualification to vote.

The legislature may, by law, exclude persons from voting because of mental illness or commitment to a jail or penal institution. No person convicted of a felony under the

laws of any state or of the United States, unless pardoned or restored to his civil rights, shall be qualified to vote.

KENTUCKY

Employment

KY. REV. STAT. ANN. § 207.140 (Michie 1990): Preemployment inquiry – Basis for rejection of applicant for employment or housing.

. . .

(2) Nothing contained in KRS 207.130 to 217.40 shall be construed to prohibit the rejection of an applicant for employment or housing on the basis of:

. . .

(b) Any handicap which is not demonstrable by medically accepted clinical or laboratory diagnostic techniques, including, but not limited to, alcoholism, drug addiction, and obesity. . . .

Institutionalization

1918 Ky. Acts 156: An Act provide for the commitment, care, treatment, training, **segregation** and custody of feeble-minded, epileptic and insane persons.

. . .

Section 2. Home and Farm Colony for Feeble-Minded. There shall also be established and maintained a **farm colony for the feeble-minded and epileptic persons** . . . equipped with dormitories and other buildings sufficient to accommodate at least five hundred **inmates** . . . .

Managing Own Affairs

KY. REV. STAT. ANN. § 67.592 (Michie 1985): Seized and forfeited property.

(1) The county judge/executive shall designate the sheriff of the county, or, if there is a county police department, may designate the chief of the county police, as custodian of all property:

. . .

(f) Which is taken from person **supposed to be insane**, intoxicated, or **otherwise incapable of taking care of themselves**.

KY. REV. STAT. ANN. § 95.435 (Michie 1985): Custody and disposition of property taken by the police department.

(1) The police department in cities of the second class, and urban-county government shall take charge of property, . . . taken from persons **supposed to be insane**, intoxicated or **otherwise incapable of taking care of themselves**.

Voting

KY. CONST. § 145 (1980): The following persons are excepted and shall not have the right to vote:

. . .

Third: **Idiots and insane persons**.

KY. CONST. § 145 (1990): Persons entitled to vote.

Every citizen of the United Sates of the age of eighteen years who has resided in the state one year, and in the county six months, and the precinct in which he offers to vote sixty days next preceding the election, shall be a voter in said precinct and not elsewhere but the following persons are excepted and shall not have the right to vote.

. . .

3. **Idiots** and **insane persons**.

LOUISIANA

Institutionalization

1918 La. Acts 240:

Section 1. Be it enacted by the General Assembly of the State of Louisiana that there is hereby created and established a charitable institution for the State of Louisiana to be known as the "State Colony and Training School", which is an institution especially provided for the **feeble-minded persons** of the State of Louisiana.

Section 2. Be it further enacted, etc., that the words "feeble-minded" in this Act shall be construed to mean any person afflicted with **mental defectiveness** from birth or from an early age, so pronounced that he is incapable of managing himself and his affairs, or being taught to do so, and requires supervision, control and care for his own welfare, or for the welfare of others, or for the welfare of the community, who is not classifiable as an insane person within the meaning and intent of the laws of the State of Louisiana.

LA. REV. STAT. ANN. § 581 (West 1990):

Upon written authorization of the deputy secretary, any employee or agent of the [Bureau of Criminal Identification and Information] may enter any institution to which persons have been committed, who have been convicted of crime, or declared to be criminal **insane** or to be **feeble-minded** delinquents, to take or cause to be taken fingerprints or photographs or to make investigations relative to any person confined therein, for the purpose of obtaining information which will lead to the identification of criminals.

Managing Own Affairs

LA. REV. STAT. ANN. § 1591 (West 1990): Persons incapable of being witnesses to testament.

The following persons are absolutely incapable of being witnesses to testaments:

1. Children who have not obtained the age of sixteen years complete.

2. Persons who are **insane**.

3. Persons who are **deaf**. However, one who is **deaf** may be a witness to a testament authorized by R.S. 9:242 and R.S. 9:2444.

4. Persons who are **blind**.

5 Persons whom the criminal laws declare incapable of exercising civil functions.

Travel

1869 La. Acts 657-59: An act to reorganize the bureau of emigration and for measures to develop the resources and increase the population and wealth of the State of Louisiana.

. . .

Section 2. *Be it further enacted, etc.,* that within twenty four hours after the landing of any passenger or passengers from any ship or vessel arriving at the port of New Orleans from any of the United States other than this State, or from any country out of the United States, the master or commander of the ship or vessel from which such passenger or passengers shall have been landed, shall make a

report in writing, on oath or affirmation, to the "commissioners of emigration," or to such person as they may designate and appoint as their agent, which report shall state the name, place of birth, last legal residence, age, and occupation of every person or passenger who shall have been landed from such ship or vessel on her last voyage to said port not being a citizen of the United States, and who shall have within the last twelve months arrived from any country out of the United States at any place within the United States, and who shall not have paid the communication money or been bonded according to the provisions of the act; ... The said report shall further specify whether any of said passengers or reported are **lunatic, idiot, deaf, dumb, blind, infirm, maimed**, or above the age of sixty years, also designating all such passengers as shall be under the age of thirteen, or widows having families, or woman without husbands having families, with the names and ages of their families, and shall further specify particularly the names, last place of residence, and ages of all passengers who may have died during the last said voyage of such vessel, also the names and residences of the owner or owners of such vessel.

...

Section 3. *Be it further enacted, etc.,* that it shall be the duty of the said commissioners of emigration or their appointed agent, by an endorsement to be made on said report, to **require the owner or consignee of the ship or vessel from which such persons were landed to give a several bond to the people of the State** that it shall be the duty of the said commissioners of emigration or their appointed agent, by an endorsement to be made on said report, to require the owner or consignee of the ship or vessel from which such persons were landed to give a several bond to the people of the State in a penalty of three hundred dollars for each and every person or passenger included in said report, such bond being secured as hereinafter provided and

conditioned to indemnify and save harmless the commissioners of emigration and each and every city, town, and parish in this State from any costs which said commissioners or such city, town, or parish shall incur for the relief or support of the person named in the bond within five years from the date of such bonds, and also to indemnify and refund to the said commissioners of emigration any expense or charge they may necessarily incur for the support or medical care of the persons named therein. . . .

Voting

LA. CONST. art. 202 (1913):

The following persons shall not be permitted to register, vote or hold any office or appointment of honor, trust or profit in this State, to-wit: Those who have been convicted of any crime punishable by imprisonment in the penitentiary, and most afterwards pardoned with express restoration of franchise; those who are **inmates of any charitable institution**, except the Soldiers' Home; those actually confined in any public prison; all interdicted persons, and all persons **notoriously insane** or **idiotic**, whether interdicted or not.

LA. CONST. art. I, § 10 (2000): Right to Vote; Disqualification From Seeking or Holding an Elective Office.

(A) **Right to Vote**. Every citizen of the state, upon reaching eighteen years of age, shall have the right to register and vote, except that this right may be suspended while a person is interdicted and judicially declared **mentally incompetent** or is under an order of imprisonment for conviction of a felony.

. . .

MAINE

Employment

ME. REV. STAT. ANN. tit. 26, § 666 (West 1988): Handicapped workers.

For any employment in which the minimum wage is applicable, the director may issue to any person **physically handicapped by age, or otherwise**, a special certificate authorizing the employment of such person for a period not to exceed one year at a wage less than the minimum wage established by this subchapter. The director may hold such hearings and conduct such investigations as he shall deem necessary for the purpose of fixing the special minimum wage for the licensee. Such license may be renewed from time to time by the director.

ME. REV. STAT. ANN. tit. 5, § 4573 (West 1990): Not unlawful employment discrimination.

It shall not be unlawful employment discrimination:

. . .

4. Refuse to hire or discharge physically or mentally handicapped. Nothing in this Act shall prohibit an employer from refusing to hire or discharging a physically or mentally handicapped employee, or subject an employer to any legal liability resulting from the refusing to employ or the discharge of a physically or mentally handicapped employee, duties or perform those duties in a manner which would not endanger the health or safety of the employee or the health or safety of other to be at, remain or go to employment are to be performed.

Institutionalization

1921 Me. Acts. ch. 60 § 47: Age limits not to apply to patients transferred from state hospitals for the insane.

The hospital trustees shall have the general management and supervision of the Maine School for Feeble-Minded, established at Pownal, in the county of Cumerland, for the care and education of **idiotic and feeble-minded males**, between the ages of six years and forty-five years, except that idiotic and feeble-minded state paupers of either sex or patients transferred from either state hospital for the insane under the provision of section six of this chapter may be admitted after the above stated ages. The trustees may make all necessary rules and regulations as to admission to said institution and for the government and control of said institution and its inmates, and do everything necessary to properly care for and educate the feeble-minded of the state. One or more of said trustees shall visit said school as often as once each month, and the board of trustees shall annually on or before the first day of October of each year furnish a report to the governor and council, containing a history of the school for the year and a complete statement of all accounts, and of all funds, general and special, appropriated or belonging to said school, with a detailed statement of disbursements.

Marriage

Marriage and its solemnization. Registration of vital statistics. Parents and children. Abused and neglected children.

. . .

Sec. 2. No **insane person** or **idiot** is capable of contracting marriage.

. . .

Sterilization

1925 Me. Acts 198 ch. 208: An Act permitting Sterilization Operations in Certain Cases of Mental Disease and Feeble-Mindedness.

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. **Operations of vasectomy and fallectomy may be performed under certain conditions.** That the operations of vasectomy and fallectomy may be performed under the conditions and within the restrictions herein described, and under such provisions shall be lawful.

Sec. 2. **Operations may be performed to prevent reproduction of feeble-mindedness or in treatment of mental disease; consent must be obtained; procedure prior to operation.** When either of the recognized sterilizing operations herein referred to may be indicated for the **prevention of the reproduction of further feeble-mindedness**, or for the therapeutic treatment of certain forms of mental disease, physicians having the custody of such cases may recommend to the nearest relative, guardian and affected individual the advisability and necessity of such operation; and when the written consent of the patient, when mentally competent to give such consent, as well as that of the nearest relative or guardian is given, the physician having the custody aforesaid of said case shall call a counsel of two registered medical practitioners – one a physician and one a surgeon – of not less than five years' practice and not related to the patient, whose duty it shall be in conjunction with the physician in charge of the case, to examine the individual

recommended for operation. Whether the person to be operated upon is mentally capable of giving his consent shall be decided by the consultants and stated in writing, with their reasons therefor, and such written statement shall be dept on file at school for feeble-minded and in case they find that the patient is mentally incapable of giving his consent, the consent of the guardian or nearest relative must be secured. If in the judgment of the consulting physicians the operation will prevent the further propagation of mental deficiency, or if in the judgment of the medical consultants the physical or mental condition of any such person will be substantially benefited thereby, then the consultants shall select a competent surgeon to perform the operation of fallectomy or vasectomy, as the case may be, upon such person.

Voting

ME. CONST. art. II, § 2 (1918):

Every male citizen of the United States of the age of twenty-one years and upwards, **excepting** paupers, **persons under guardianship,** and Indians not taxed, having his residence established in this State for the term of three months next preceding any election, shall be an elector for Governor, Senators and Representatives, in the town or plantation where his residence is so established; and the elections shall be by written ballot. . . .

ME. CONST. art. II, § 1 (1999): Qualifications of electors; written ballot; military servicemen; students; Indians

Every citizen of the United States of the age of 18 years and upwards, **excepting persons under guardianship for reasons of mental illness**, having his or her residence established in this State, shall be an elector for Governor, Senators and Representatives, in the city, town or plantation where his or her residence has been established, if he or she

continues to reside in this State; and the elections shall be by written ballot. . . .

ME. REV. STAT. ANN. tit. 21-A, 3630 (West 1999): Alternative accessible voting places for the physically handicapped.

. . .

2. Voting places. Before July 1, 1985, each municipality shall provide at least **one** voting place which is in a building which is accessible.

. . .

A. **The Secretary of State shall grant a waiver from the requirements of this subsection to any municipality which satisfactorily demonstrates that those requirements ought not to apply or would create an extreme hardship.**

B. **In municipalities in which one or more voting places are inaccessible to handicapped voters and in which the office of the clerk is in a building which is accessible as defined in subsection 1, paragraph A, the municipal officers shall designate the office of the clerk as an alternative voting place for physically handicapped voters who reside in voting districts which do not have accessible voting places. In municipalities in which one or more voting places and the office of the clerk are inaccessible to physically handicapped voters and in which one or more voting place is accessible to these voters, the municipal officers shall designate one of these accessible voting places, as centrally located as possible, as the alternative voting place for physically handicapped voters who reside in voting districts which do not have accessible voting places.** A physically handicapped voter who wishes to vote at an alternative voting place must notify

the clerk of the municipality at least 48 hours before the date of any election. This notice may be waived if an emergency exists. The clerk shall keep a list of the persons who give this notice. . . .

MARYLAND

Employment

MD. CODE ANN. § 8 (1986): Application of blind person to operate a business.

Any **blind** person of the age of 18 years or more, desiring to operate a legitimate business of any kind to provide a livelihood for himself and dependents, if any, may apply to **Blind** Industries and Services of Maryland.

Institutionalization

1904 Md. Laws, art. 59, § 1: **Lunatic or Insane Paupers.**

When any person is alleged to be a lunatic or insane and without sufficient means to pay for his or her maintenance at any asylum, and who has no relative or relatives or others legally chargeable with his or her support, the county commissioners of the county in which such person may reside, or the supervisors of city charities of the department of charities and corrections of the city of Baltimore (if such person resides in the city of Baltimore), shall, upon the written certificates of two qualified physicians made in accordance with the provisions of section 31, **cause such person to be sent to the almshouse of the county or city to which he or she belongs, or to a hospital or some other place better suited to his or her condition**, there to be confined at the expense of the county or city until he or she shall have recovered and be discharged in due course of law; but if demanded by the alleged lunatic or insane person or any of his or her relatives or friends, or if requested by the board of county commissioners of the county in which the alleged lunatic or insane person resides, or by the supervisors of the city charities of the department of charities and

corrections of the city of Baltimore, if said person resides therein, the circuit court for the county in which such person may reside, or the criminal court of Baltimore, (if such person resides in the city of Baltimore) shall cause a jury of twelve good and lawful men to be empanelled forthwith and shall charge the said jury to inquire whether such person is insane or lunatic, and if found so it shall be the duty of the county commissioners or the supervisors of city charities of the department of charities and corrections of Baltimore city to cause such person to be sent to the almshouse of the county or city to which he or she belongs, or to a hospital, or to some other place better suited to his or her condition, there to be confined at the expense of the county or city, until he or she shall have recovered and be discharged in due course of law. It shall be the duty of any board of county commissioners or the supervisors of the city charities of the department of charities and corrections of the city of Baltimore, before whom any such alleged lunatic or insane person is brought for commitment under this section, if not satisfied that such person is lunatic or insane, as defined in section 3, to notify the state attorney of said county or city, and he shall immediately thereupon bring the said question before the circuit court for the said county or the criminal court of Baltimore for determination in accordance with the provisions of this section. Nothing contained in this section shall prevent the friends or relatives of such lunatic or insane person from confining him or her or providing for his or her comfort.

1906 Md. Laws 268: AN ACT to repeal and re-enact with amendments Section 4 of Chapter 562 of the Acts of 1894 . . . so as to further provide for the admission, custody and discharge of **idiotic, imbecile** and **feeble-minded persons.**

. . .

Section 4. *And be it enacted*, That said Maryland Asylum and Training School for Feeble-Minded shall receive, care for and educate, free of charge, all **idiotic, imbecile and feeble-minded persons** of this State whom the board of visitors shall consider proper subjects to receive the benefit of said asylum and training school, who shall present a certificate of the Orphans' Court or County Commissioners of the city or county in which such persons respectively reside, and they, their parents or guardians are unable to pay for their maintenance and education in whole or in part; and in case such persons, or any of them, their parents or guardians, are able to pay for such maintenance and education in part, then said visitors shall be at liberty to charge so much as they shall find such persons, their parents or guardians are severally able to pay towards such maintenance and education; but where such persons, their parents or guardians, are able to pay in full, the said visitors are permitted to charge such reasonable amount as will cover the expense for the maintenance and education of each person so able to pay; and said visitors shall also be authorized to receive **feeble-minded children** from other states and the District of Columbia, when there is ample room in said institution for the same, upon such terms and conditions as the board of visitors shall approve; and all moneys so received for board and tuition shall be applied in the maintenance of said institution; and all such **idiotic, imbecile** or **feeble-minded persons** who have been, or who shall hereafter be received into said institution free of charge, upon the presentation of a certificate of the Orphans' Court or County Commissioners shall be taken and regarded as wards of the State of Maryland, and all such persons shall remain in the care, custody and control of the visitors of said institution, and the visitors of said institution are hereby authorized to retain all such persons in their care, custody and control at said institution, until such time as in the judgment of said visitors, or a majority of them, the welfare of such persons and the public interest shall justify or call for

their release or discharge therefrom, unless otherwise discharged by due process of law.

Voting

MD. CONST. art. I, § 35 (1909): That no person above the age of twenty-one years, convicted of larceny or other infamous crime, unless he shall be pardoned by the executive, shall ever thereafter be entitled to vote at any election in this State, and no person under guardianship as a lunatic, or as a person ***non compos mentis***, shall be entitled to vote.

MD. CONST. art. I, § 34 (1981): Right to vote of persons convicted of certain crimes and persons under guardianship.

The General Assembly by law may regulate or prohibit the right to vote of a person convicted of infamous or other serious crime or **under care or guardianship for mental disability**.

MD. CODE ANN. (ELEC.) § 3.21A (1988): Alternate polling place for elderly or handicapped voter.

(a) (1) Upon the request of an **elderly** or **handicapped** voter whose polling place is not structurally barrier free the board shall either:

(i) Assign the voter to an election district, ward, or precinct whose polling place is structurally barrier free; or

(ii) Notwithstanding other provisions of law regarding eligibility for an absentee ballot, issue the voter an absentee ballot in accordance with the procedures established under this article.

(2) In order to qualify for assignment to an alternate polling place, the voter shall apply for a change in polling place on a form prescribed by the State Administrative Board of Election Laws no later than the closing of registration for any election.

(3) An **elderly** or **handicapped** voter who is assigned to another polling place under this subsection shall be provided with the same ballot as that used at the voter's original polling place.

(b) The alternate polling place shall be located in the same county or Baltimore City as the polling place where the voter resides and must be one in which the ballot used is identical to the ballot in the polling place where the voter resides.

(c) This section **applies only if a structurally barrier free alternate polling place meeting the provisions of subsection (b) is available**.

MASSACHUSETTS

Institutionalization

MASS. GEN. LAWS ch. 120, § 14 (1987): Applications for new commitments for insane, feeble minded and sexually psychopathic persons.

Whenever the department finds that any person committed to it is **insane** or **feeble minded**, within the meaning of chapter one hundred and twenty-three, or a sexual psychopath, within the meaning of chapter one hundred and twenty-three A, **or a potential psychotic**, as defined and determined by the assistant commissioner of the bureau of clinical services, the department may make application to the proper court for a new commitment to the appropriate agency in accordance with law.

Managing Own Affairs/ Parenting

MASS. GEN. LAWS ch. 272, § 5 (1987): Sexual intercourse with feeble minded persons.

Whoever has unlawful sexual intercourse with a person who is **feeble minded, an idiot or imbecile or insane,** under circumstances which do not constitute rape, shall, if such person had reasonable cause to believe that such other person was **feeble minded**, an **idiot** or **imbecile** or **insane**, be punished as provided in section three.

MASS. GEN. LAWS ch. 123, § 2b (1987): Appointment of guardian or conservator.

In addition to the periodic review under section fourteen of this chapter, whenever the superintendent has

reason to believe that a person who has been under the care of the department as an impatient or resident for more than six months, who is not under guardianship or conservatorship, is unable to care for his property, he shall promptly notify said person's nearest living relative and recommend that the necessary steps be taken for the appointment of a guardian or a conservator.

Travel

1852 Mass. Acts 195, ch. 279: AN ACT Concerning alien passengers.

Section 1. The fifth section of the act entitled "An act concerning alien passengers," approved on the 10th day of May, in the year 1848, is hereby amended so as to read as follows:

If on examination there shall be found among said passengers any **lunatic**, **idiotic**, **deaf and dumb**, **blind**, or **maimed** person, **no such person shall be permitted to land** until the master, owner, consignee, or agent of such vessel shall make and deliver to said superintendent a bond to the Commonwealth, with satisfactory sureties, in the sum of one thousand dollars, conditional that such passenger shall not, within ten years from the date of said bond, become a city, town, or state charge within this Commonwealth. And in respect to every other of said passengers the said superintendent, before he shall be permitted to land, shall require a bond, secured as aforesaid, in the sum of three hundred dollars, conditioned that such person shall not become a charge as aforesaid within five years from the date of said bond: *Provided, however,* That in lieu of the bond lastly above mentioned the said superintendent may receive from said master, owner, consignee, or agent, such sum as in his judgment shall be sufficient to cover the risk incurred by

the Commonwealth in permitting such passenger to be landed, and thereupon permit such passenger to be landed: *Provided*, That the sum so to be paid shall in no case be less than two dollars; and the names of all such passengers shall be certified by said superintendent on the back of the report: *And provided further,* That if any passengers so arriving as aforesaid are so sick or destitute as to require relief, and if said master shall refuse to report them, or if said master, owner, consignee, or agent shall refuse to report them, or if said master, owner, consignee, or agent shall refuse to give such bond as is herein required, the said superintendent may permit them to be landed, and in such cases any city or town that shall be put to any expense for the support, sickness, or burial of any such passenger, within ten years of the time he has so landed, may maintain an action of debt against said master, owner, consignee, or agent, and recover all expenses incurred as aforesaid; and said commanding officer, owner, consignee, or agent shall be liable to the penalties provided in the tenth section of this act.

Voting

MASS. CONST. art. III (1822):

Every male citizen of twenty-one years of age and upwards (except paupers and **persons under guardianship**), who shall have resided within the commonwealth one year, and within the town or district in which he may claim a right to vote six calendar months next preceding any election of governor, lieutenant-governor, senators, or representatives, and who shall have paid, by himself or his parent, master, or guardian, any State or county tax which shall, within two years next preceding such election, have been assessed upon him in any town or district of this commonwealth, and also every citizen who shall be by law exempted from taxation, and who shall be in all other respects qualified as above

mentioned, shall have a right to vote in such election of governor, lieutenant-governor, senators, and representatives, and no other person shall be entitled to vote in such elections.

MICHIGAN

Employment

MICH. COMP. LAWS § 338.1719 (1983): Refusal to issue or suspension or revocation of license; grounds. [polygraph license].

. . .

Section 19. The board may refuse to issue a license, or may suspend or revoke a license on one or more of the following grounds, if the holder or applicant for a license has:

. . .

(h) Been adjudged mentally ill, mentally deficient, or in need of mental treatment.

MICH. COMP. LAWS § 449.32 (1990): Dissolution by decree of court.

(1) On application by or for a partner the court shall decree a dissolution whenever:

(a) A partner has been declared **a lunatic** in any judicial proceeding or is shown to be of **unsound mind**.

MICH. COMP. LAWS § 393.361 (1990): Qualifications of applicant to operate concession; limitation on operation.

. . .

Section 11. The qualifications of an applicant to operate a concession shall be determined according to

qualifications established by the commission. A **blind person** shall not operate more than 1 concession.

Housing Discrimination

MICH. COMP. LAWS § 5.2961 (16a) (1999): State licensed residential facility defined; consideration as residential use for zoning purposes; inapplicability to certain facilities; commission consideration of board's recommendations; final approval of programs; previously licensed or approved facilities; public hearing; decisions, conditions.

Sec. 16a. (1) As used in this section, "state licensed residential facility" means a structure constructed for residential purposes that is licensed by the state pursuant to Act No. 287 of the Public Acts of 1972, as amended, being sections 331.681 to 331.694 of the Michigan Compiled Laws, or Act No. 116 of the Public Acts of 1973, as amended, being sections 722.111 to 722.128 of the Michigan Compiled Laws, which provides resident services for 6 or less persons under 24-hour supervision or care for persons in need of that supervision or care.

. . .

(4) At least 45 days before licensing a residential facility described in subsection (1), the state licensing agency shall notify the county board of commissioners or its designated agency of the county where the proposed facility is to be located to review the number of existing or proposed similar state licensed residential facilities whose property lines are within a 1,500 foot radius of the property lines of the location of the applicant. The county board of commissioners of a county or an agency of the county to which the authority is delegated may, when a proposed facility is to be located within the county, give appropriate **notification** of the proposal to license the facility **to those**

residents whose property lines are within a 1,500 foot radius of the property lines of the proposed facility. A state licensing agency shall not license a proposed residential facility when another state licensed residential facility exists within the 1,500 foot radius, unless permitted by local zoning ordinances, of the proposed location **or when the issuance of the license would substantially contribute to an excessive concentration of state licensed residential facilities within the county**. This subsection shall not apply to state licensed residential facilities caring for 4 or less minors.

. . .

Institutionalization

1893 Mich. Pub. Acts 412: AN ACT to establish a home and training school for the **feeble-minded** and **epileptic**, and making an appropriation for the same.

Section 1. *The People of the State of Michigan enact*, that there shall be established in this State an institution for the custody, care, education, proper treatment and discipline of **feeble-minded and epileptic persons**, under the name and the style of **the "Michigan Home for the Feeble-minded and Epileptic**.

. . .

Section 20. All **feeble-minded** and **epileptic** persons between the ages of six and twenty-one years who are legal residents of the State of Michigan may be admitted to said home without charge for tuition, boarding, lodging, washing, medicine or medical attendance. In the selection of **inmates** preference shall be given to indigent or pauper orphans, and when this class is provided for such others may be admitted for whom application may be made, and as accommodations

may be provided for by sufficient buildings. And when these classes are provided for other feeble-minded and epileptic persons who are entitled to admissions may be received at such institution.

Section 21. The object of said institution shall be to provide, by all proper and feasible means, the intellectual, moral and physical training of that **unfortunate portion of the community who have been born or by disease have become imbecile or feeble-minded or epileptic**, and by a judicious and well-adapted course of training and management to ameliorate their condition and to develop as much as possible their intellectual faculties **to reclaim them from their unhappy condition and fit them as far as possible for future usefulness in society.**

. . .

Section 26. The superintendents of the poor in each of the counties of the State in which there are or shall be persons of this class eligible to admission to this home by the provisions of this act, who have no contagious disease, and who are, or shall become chargeable to said county, or to any township therein, shall cause all; or any such persons to be taken to the home for the **feeble-minded** and **epileptic** and to be taken into the custody and care of said home, in accordance with the rules and regulations of said home. No person, however, shall be admitted to said home, until a certificate of admission has been issued for the admission of said person by some officer of said home duly authorized by the board of trustees to issue such certificate.

Section 27. The superintendents of the poor shall cause any and all such persons to be taken to the Home for the Feeble-minded and Epileptic at the expense of the county, and to be taken into [the] custody and care of the school in accordance with the rules and regulations of said home.

1893 Mich. Pub. Acts 418: AN ACT to provide for the location, establishment and organization of an **asylum for the insane** in the upper-peninsula.

Section 1. *The People of the State of Michigan enact*, That the members of the State Board of Corrections and Charities, shall, *ex officio,* constitute a board of locating commissioners for the purpose of selecting a site for an additional asylum for the insane.

Section 2. The said commissioners may receive by donation, within six months from and after the approval of this act, in a healthy, easily accessible **part of the upper peninsula of the State,** as a site for the **asylum**, a tract of land containing not less than four hundred acres, which shall be capable of being easily supplied with a sufficient quantity of living water for all the purposes of such an institution, and also to furnish proper facilities for drainage.

. . .

Marriage

MICH. COMP. LAWS § 551.6 (1990): Mental or venereal disease; incapacity; validation of white-African marriages; penalty; competency of witness.

. . .

Section 6. No **insane person**, **idiot**, or **person who has been afflicted with syphilis or gonorrhea** and has not been cured of the same, shall be capable of contracting marriage. All marriages heretofore contracted between white persons and those wholly or in part of African descent and hereby declared valid and effectual in law for all purposes; and the issues of such marriages shall be deemed and taken as legitimate as to such issue and as to both of the parents.

No person who has been confined in any public institution or asylum as a **feeble-minded**, **imbecile** or **insane patient**, or who has been adjudged **insane**, **feeble-minded** or an **imbecile** by a court of competent jurisdiction, shall be capable of contracting marriage without, before the issuance by the county clerk of the license to marry, filing in the office of the county clerk a verified certificate from 2 regularly licensed physicians of this state that such person has been completely cured of such **insanity**, **imbecility** or **feeble-mindedness** and that there is no probability that such person will transmit any of such **defects or disabilities** to the issue of such marriage. Any person of sound mind who shall intermarry with such **insane person** or **idiot** or person who has been so confined as **feeble-minded**, **imbecile** or **insane** patient, or who has been so adjudged **insane**, **feeble-minded** or an **imbecile**, except upon the filing of certificate as herein provided, with knowledge of the disability of such person, or who shall advise, aid, abet, cause, procure or assist in procuring any such marriage contrary to the provisions of this section, is guilty of a **felony** and on conviction thereof in any court of competent jurisdiction shall be punished by a **fine** of not more than $1,000.00 or by **imprisonment** in the state prison not less than 1 year nor more than 5 years, or by both such fine and imprisonment.

MICH. COMP. LAWS § 552.1 (1990): Invalidity of marriages; relationship of parties, bigamy, insanity, idiocy; legitimacy of issue.

Section 1. All marriages which are prohibited by law on account of consanguinity or affinity between the parties, or on account of either of them having a wife or husband then living, and all marriages solemnized when either of the parties was **insane or an idiot**, shall, if solemnized within this state, be **absolutely void.** The issue of such marriage shall be deemed legitimate.

. . .

Sterilization

1913 Mich. Public Acts, No. 34:

[Authorizing compulsory **sterilization** of **mentally defective** or **insane** institutional inmates.]

1923 Mich. Pub. Acts 453: AN ACT to authorize the sterilization of mentally defective persons . . . ., *amended by* 1929 Mich. Pub. Acts 689:

. . .

It [is] the policy of the state to **prevent the procreation** and increase in number of **feeble-minded, insane** and **epileptic** persons, **idiots, imbeciles, moral degenerates**, and sexual perverts, **likely to become a menace to society** or wards of the state. The provisions of this act are to be liberally construed to accomplish this purpose.

. . .

[Duty of state officials] to bring to the attention of the governing board or body of such institution and to the state welfare commission [any] **mentally defective person** who would be likely to procreate children unless closely confined or rendered incapable of procreation [for whom they believe it would be] for the **best interest of such person and of society that such mentally defective person should be sexually sterilized**.

Voting

MICH. CONST. art. II, § 2 (1963): Mental incompetence; imprisonment.

The legislature may by law exclude persons from voting because of **mental incompetence** or commitment to a jail or penal institution.

MINNESOTA

Housing Discrimination

MINN. STAT. ANN. § 245.821 (1998): Notice of establishment of facilities for treatment, housing or counseling of handicapped persons.

Subdivision 1. Notwithstanding any law to the contrary, no private or public facility for the treatment, housing, or counseling of more than five persons with **mental illness, physical disabilities, mental retardation** or related conditions, as defined in section 252.27, subdivision 1a, chemical dependency, or another form of dependency, nor any correctional facility for more than five persons, shall be established without **30 days written notice to the affected municipality or other subdivision**.

. . .

MINN. STAT. ANN. § 245A.11 (1998): Special conditions for residential programs.

. . .

Subd. 3. Permitted multifamily residential use. Unless otherwise provided in any town, municipal, or county zoning regulation, a licensed residential program with a licensed capacity of seven to 16 persons shall be considered a permitted multifamily residential use of property for the purposes of zoning and other land use regulations. A town, municipal, or county zoning authority may require a **conditional use or special use permit** to assure proper maintenance and operation of a residential program. Conditions imposed on the residential program must not be more restrictive than those imposed on other conditional uses

or special uses of residential property in the same zones, unless the additional conditions are necessary to protect the health and safety of the persons being served by the program. Nothing in sections 245A.01 to 245A.16 shall be construed to exclude or prohibit residential programs from single-family zones if otherwise permitted by local zoning regulations.

Subd. 4. Location of residential programs. In determining whether to grant a license, the commissioner shall specifically consider the population, size, land use plan, availability of community services, and the number and size of existing licensed residential programs in the town, municipality, or county in which the applicant seeks to operate a residential program. **The commissioner shall not grant an initial license to any residential program if the residential program will be within 1,320 feet of an existing residential program** unless one of the following conditions apply: (1) the existing residential program is located in a hospital licensed by the commissioner of health; (2) the town, municipality, or county zoning authority grants the residential program a conditional use or special use permit; (3) the program serves six or fewer persons and is not located in a city of the first class; or (4) the program is foster care.

Subd. 5. Overconcentration and dispersal. (a) Before January 1, 1985, each county having two or more group residential programs within 1,320 feet of each other shall submit to the department of human services a plan to promote dispersal of group residential programs. In formulating its plan, the county shall solicit the participation of affected persons, program, municipalities having highly concentrated residential program populations, and advocacy groups. For the purposes of this subdivision, **"highly concentrated" means having a population in residential programs serving seven or more persons that exceeds**

one-half of one percent of the population of a recognized planning district or other administrative subdivision.

(b) Within 45 days after the county submits the plan, the commissioner shall certify whether the plan fulfills the purposes and requirements of this subdivision including the following requirements:

(1) a new program serving seven or more persons must not be located in any recognized planning district or other administrative subdivision where the population in residential programs is highly concentrated;

(2) the county plan must promote dispersal of highly concentrated residential program populations;

(3) the county plan shall promote the development of residential programs in areas that are not highly concentrated;

(4) no person in a residential program shall be displaced as a result of this section until a relocation plan has been implemented that provides for an acceptable alternative placement;

(5) if the plan provides for the relocation of residential programs, the relocation must be completed by January 1, 1990. If the commissioner certifies that the plan does not do so, the commissioner shall state the reasons, and the county has 30 days to submit a plan amended to comply with the requirements of the commissioner.

. . .

Institutionalization

1909 Minn. Laws 72: Crippled and deformed children to be admitted to school for feeble-minded-conditions.

All **feeble-minded persons**, resident of the state, who, in the opinion of the superintendent of said school are of suitable age and capacity to receive instruction in said school and whose **defects** prevent them from receiving proper training in the public schools, and all **idiotic and epileptic persons** resident of the state may be admitted to their respective departments under such conditions and regulations as said board shall prescribe.

. . .

Any **crippled or deformed child** who is **helpless** and who cannot be benefited by treatment at the **State Hospital for Crippled and Deformed Children**, or any child who is **physically helpless** from any chronic disease of the nervous system or any child or adult suffering from such or other incurable **chronic invalidism**, may be admitted to said department for incurables in said institution in the discretion of and under such conditions as the board of control shall determine: *Provided,* however that this section shall not apply to those who are helpless from **insanity** or senile dementia, or whose presence shall, in the opinion of the superintendent of said institution be incompatible with the general purposes of the institution, as specified above.

. . .

Sterilization

1925 Minn. Laws 140, ch. 154:

[Authorizing residents of state institutions "to be sterilized by the operation of vasectomy or tubectomy."]

Voting

MINN. CONST. art. VII, § 2 (1857):

No person **under guardianship**, or who may be ***non compos mentis*** **or insane**, shall be entitled or permitted to vote at any election in this State.

MISSISSIPPI

Institutionalization

1920 Miss. Laws 288: AN ACT to provide for the establishment and maintenance of the **Mississippi School and Colony for the Feebleminded**; to define "feebleminded" and "poor person"; to provide for the admission, commitment and release of feebleminded persons; to provide for the care, treatment and training of the **feebleminded** in order to **prevent the multiplication of feebleminded** criminals and paupers; and to provide penalties for the violation of this act.

Section 1. *Be it enacted by the Legislature of the State of Mississippi:* that this act shall be known as the **Mental Deficiency Law of Mississippi**.

Section 2. *Definition of "feebleminded" and "poor person"* — that the term **"feebleminded,"** within the meaning of this act, shall apply to any and all persons with such a degree of **mental inferiority** from birth or from infancy or early childhood, that they are unable to care for themselves, to profit by ordinary public school instruction, to compete on equal terms with others, or to manage themselves and their affairs with ordinary prudence, and consequently constitute **menaces to the happiness or safety of themselves or of other persons in the community, and require care, supervision and control either for their own protection or for the protection of others.**

That the persons denominated **feebleminded** comprise those commonly called **idiots**, **imbeciles** and **morons**, or high grade **feebleminded persons**;

That feebleminded persons may, or may not, be subject to epileptic seizures. That repeated epileptic seizures do deteriorate mentality;

That the greatest danger of the feebleminded to the community lies in the frequency of the passing on of mental deficiency from one generation to another, and in the consequent propagation of criminals and paupers;

Section 3. Establishment of the Mississippi School and Colony for the Feebleminded — That there shall be established and maintained by the state of Mississippi a state institution, to be known as "**the Mississippi School and Colony for the Feebleminded**," for the care, training, employment and custody of **feebleminded** persons, and that this institution **shall have the power to receive and hold property**, real and personal, and shall have the same rights and privileges as are conferred by law on other eleemosynary institutions of Mississippi. The short title for the institution shall be "the Mississippi Colony."

. . .

Section 9. *Plan of the Mississippi Colony* — That the Mississippi Colony shall provide for the separate maintenance of the white and colored races; that it shall be arranged for the complete segregation of the sexes of each race; that it shall provide for the maintenance in separate cottages of **epileptics**; and that it shall provide for the separate maintenance of criminal and **immoral mental defectives.**

That the board of trustees and the superintendent shall plan the institution with a view to securing the most economical production of shelter, with the necessary distribution of heat, light and food, at the same time **securing the isolation and segregation required.**

That the institution shall provide for the training of all young persons to the fullest extent of which they are capable, and in a manner which shall best fit each for a life of usefulness. **Training in the use of the hands being considered of the highest importance, the educational activities of the institution shall be primarily directed toward perfecting the pupils in the arts of the farm, of the house, and of the shop.**

That provision shall be made for the frequent mental examination of every inmate of the institution, and for a **research department which shall study the causes of mental deficiency with a view to curtailing and preventing feeblemindedness in the state.**

. . .

Section 16. *Admission of minors to the Mississippi Colony* — That the father or mother, if they are living together, or whichever one of them has the custody of the child, if they are living apart, or the guardian of a child, may apply to the superintendent of the Mississippi Colony for the admission of such child to the Mississippi Colony, supplying such information as the superintendent and the board of trustees shall require, if, in the judgment of the applicant, the child is **feebleminded** or **epileptic**, and if said child is native in the state, or has been a resident of the state for the past five years. When such applications have been made to the superintendent, and when in his judgment, after physical and mental examination, the child is found to be feebleminded or epileptic, the superintendent may receive such child as an **inmate** in the colony.

When any such child is so admitted by the superintendent, the child then and there, by this act of the superintendent, becomes a ward of the state, and the Mississippi Colony shall from that time forward have

exclusive care, custody or control of such child, and shall cause him to be instructed and trained in such manner and degree as may be best suited to his capacity for learning until such time as said inmate shall be released therefrom by the board of trustees, by the superintendent, or by the order of a chancellor, or of a judge of the Supreme Court of Mississippi, rendered at chambers or otherwise, by due process of law.

Section 17. *Filing petition for commitment to the Mississippi Colony* — That the chancery courts have jurisdiction in all cases of legal inquiry in regard to **feeblemindedness**, including **idiocy, imbecility, and the higher grades and varieties of mental inferiority which render the subjects unfit for citizenship**. This jurisdiction may be exercised by the clerk of the chancery court, subject to the approval of the chancellor.

At any time, subject to the approval of the court, any relative of a **feebleminded** person, child or adult, may make application to the clerk of the chancery court to have him adjudged feebleminded; but **if the relatives of any feebleminded person shall neglect or refuse to make application to the clerk of the chancery court to have him adjudged feebleminded, and shall permit him to go at large, the clerk of the court shall, on the application, in writing and under oath, of a citizen of the county in question, issue a summon to the sheriff to summon the alleged feebleminded person and his parent, guardian or next friend to contest the application.**

The application shall request that the alleged feebleminded person be adjudged feebleminded, and in need of proper care. It shall state the facts upon which the allegation of feeblemindedness is based, and because of which the application is made.

. . .

Section 23. *Orders of commitment and conveyance to institutions* — That when the chancellor or any clerk of a chancery court presiding at an inquest concerning the feeblemindedness of any person, shall be satisfied that the person is feebleminded, and that for the safety or happiness of the feebleminded himself, or for the safety or happiness of other persons in the community, he should be committed to the Mississippi Colony, or to some other institution, it shall be the duty of said chancellor, or said clerk of the chancery court, to ascertain from the superintendent of the Mississippi colony, or other institution, to which it is designed to commit the person whose mental condition has been ascertained to be one of feeblemindedness, the chancellor, or clerk of the chancery court, shall issue an order of commitment to the Mississippi Colony, or other suitable institution, and such order shall be transmitted with the patient when he is conveyed to the institution.

. . .

Managing Own Affairs/Parenting

MISS. CODE ANN. § 41-21-45 (1990): Unlawful to cohabit with feeble-minded.

It shall be **unlawful** for any person to cohabit with or attempt sexual intercourse with a female who is **feebleminded,** as defined in section 41-19-101, after adjudication of such feeblemindedness.

Anyone convicted of either of these crimes, shall, upon conviction thereof, be punished by a **fine** of not less than one thousand dollars, or **imprisonment** of not less than one year in the penitentiary, or by both such fine and imprisonment.

Marriage

MISS. CODE. ANN. § 93-1-5 (2000): Conditions precedent to issuance of license; penalty for noncompliance.

It shall be unlawful for the circuit court clerk to issue a marriage license until the following conditions precedent have been complied with:

. . .

(f) In no event shall a license be issued by the circuit court clerk when it appears to the circuit court clerk that the applicants are, or either of them is, drunk, **insane** or **an imbecile**.

Sterilization

MISS. CODE ANN. § 41-45-1 (1972): Sexual sterilization of certain defectives authorized.

Whenever the director of the Mississippi State Insane Hospital, or of the East Mississippi Insane Hospital, or of the Ellisville State School, shall be of the opinion that it is for the **best interests of the patients and of society that any inmate of the institution under his care should be sexually sterilized,** such director is hereby authorized to perform, if he be a surgeon, the operation of sterilization on any such patient confined in such institution afflicted with **hereditary forms of insanity** that are **recurrent**, **idiocy**, **imbecility,** or **feeblemindedness**, provided that such director shall have first complied with requirements of this chapter.

Travel

1906 Miss. Laws 1011: Vessels bringing pauper immigrants, children, etc.

If any person commanding a ship, vessel, steamboat, or other water craft, shall import into this State, or bring to the shores or within the limits thereof any infant, **lunatic, maimed, aged, or infirm person**, or vagrant who is likely to become chargeable on the county, on the requisition of the supervisor of the district or the mayor of any city, town, or village, the captain, master, or commander of such ship, vessel, steamboat, or other water craft shall enter into bond, with sufficient sureties, payable to the county, conditioned to indemnify such county against all charges that may be incurred in the support and care of such person; and any captain, master, or commander failing or refusing to give the bond required shall forfeit and pay to the county the sum of two hundred dollars for each infant, **lunatic, maimed, aged, or infirm person**, or vagrant so brought into the State, to be recovered by action.

Voting

MISS. CODE ANN. § 123-15-11 (1990): Qualifications, generally.

Every inhabitant of this state, **except idiots and insane persons,** who is a citizen of the United States of America, eighteen (18) years old and upwards, who has resided in this state for thirty (30) days and for thirty (30) days in the county in which he offers to vote, and for thirty (30) days in the supervisor's district or in the incorporated city or town in which he offers to vote, and who shall have been duly registered as an elector by an officer of this state under the laws thereof, and who has never been convicted of any crime listed in Section 241, Mississippi Constitution of

1890 shall be a qualified elector in and for the county, municipality and voting precinct of his residence, and shall be entitled to vote at any election. No others than those above included shall be entitled, or shall be allowed, to vote at any election.

MISSOURI

Family

MO. REV. STAT. § 453.130 (1978): Decree of adoption may be set aside, when.

Whenever a person adopted under the provisions of this chapter shall develop **venereal infection as a result of conditions existing prior to the time such person was adopted, or shall develop feeblemindedness or epilepsy,** or shall prove to be a member of a race, the members of which are prohibited by the laws of this state from marriage with members of the race to which the parents by adoption belong, a petition setting forth such facts may be filed at any time within five years after such adoption with the court which decreed the adoption, and if on a hearing the facts in such petition are established, the said court may enter a decree **annulling the adoption** and setting aside any all rights and obligations that may have accrued by reason of said adoption.

Marriage

MO. REV. STAT. § 451.020 (1978): Certain marriages prohibited–official issuing licenses to certain persons guilty of misdemeanor.

All marriages between parents and children, including grandparents and grandchildren of every degree, between brothers and sisters of the half as well as the whole blood, between uncles and nieces, aunts and nephews, first cousins, and between persons either of whom is **insane, mentally imbecile or feeble-minded**, are prohibited and declared **absolutely void.**

Segregated Education

MO. ANN STAT. § 162.815(i) (West 1990): Voters may create special districts to educate severely handicapped and to provide vocational training to residents of district.

In all areas of this state the voters may organize and create a **special district** for the primary purposes of:

(1) Educating and training **handicapped** and **severely handicapped** children resident within the special district.

. . .

Travel

1901 Mo. Laws 132: Crimes and Punishments: Importation of Children.

Section 1. No association incorporated under the laws of any other state than the state of Missouri shall place any child in any family home within the boundaries of the state of Missouri, either with or without indenture, or for adoption, unless the said association shall have furnished the state board of charities and corrections with such guarantee as they may require that **no child shall be brought into the state of Missouri by such society or its agents having any contagious or incurable disease or being of feeble mind or of vicious character**, and that said association will promptly receive and remove from the state any child brought into the state of Missouri by its agents which shall become a public charge within the period of five years after being brought into this state.

Section 2. Any person who shall receive to be placed in a home, or shall place in a home any child on behalf of any

association incorporated in any other state than the state of Missouri, which shall not have complied with the requirements of the preceding section shall, upon conviction, be punished by imprisonment in jail not more than thirty days, or by fine of not less than five or more than one hundred dollars, or by both such fine and imprisonment.

Section 3. The necessity for this act going into effect at once on account of the fact that the New York children's aid society is pouring car loads of children into the state without properly supervising them, thereby burdening our commonwealth, creates an emergency within the meaning of the constitution; therefore, this act shall take effect and be enforced from and after its passage.

Voting

MO. CONST. art. VIII, § 2 (1974): Qualifications of voters–disqualifications.

[N]o person who has a guardian of his or her estate or person by reason of **mental incapacity**, appointed by a court of competent jurisdiction and no person who is **involuntarily confined in a mental institution** pursuant to a adjudication of a court of competent jurisdiction shall be entitled to vote, and persons convicted of felony, or crime connected with the exercise of the right of suffrage may be excluded by law from voting.

MO. ANN. STAT. § 115.115(5) (West 1990):

Each local election authority may designate **one** common site as an election day polling place designed for accessibility to the **handicapped** and elderly.

MONTANA

Institutionalization

1919 Mont. Laws 196: AN ACT relating to the admission, care and retention of **feeble-minded persons** and also persons afflicted with **epilepsy** to the Montana Training School for Feeble-Minded and a Department of the Montana School for the Deaf and Blind at Boulder . . . .

Section 1. There is hereby established at Boulder, Montana in connection with and under the control of the Montana school for the Deaf and Blind, a Montana Training School for Feeble-minded Persons, for the training and detention of **epileptics** and **feeble-minded** minors and adults: and said **unfortunates** are to be admitted to said institution and cared for therein as provided in this act.

. . .

MONT. CODE ANN. § 38-801 (1947): Montana state training school and hospital established.

That the institution heretofore established at Boulder, in Jefferson county, state of Montana, as a training school and hospital for the education, training and **detention** of **subnormal minors and adults** and **epileptics**, shall be known and designated as the "Montana state training school and hospital," and shall be under the general direction, supervision and control of the state board of education, with a local executive board appointed in the manner, and having the powers and duties granted to and imposed upon such local executive board by the provisions of sections.

. . .

Purposes and objects of school. The purpose and object of such school shall be the mental, moral and physical education and training of **subnormal persons whose defects prevent them from receiving proper instruction and training in the public schools, or who are so mentally deficient that they are incapable of managing themselves or their affairs independently with ordinary prudence** or of being taught to do so, or who require control and education for their own welfare and the welfare of others, and minors whose intelligence will not develop without such care; epileptics and subnormal adults whose defects prevent them from taking care of themselves or their property, or who, from social standards, are a **menace to society**.

Sterilization

MONT. CODE ANN. § 38-603 (1947): State board of eugenics created.

The state board of eugenics is hereby created and established for the state of Montana. It shall consist of: The chief physician of each custodial institution, the president of the state medical association, a female member named by the state medical association, and the secretary of the state board of health, the last named to be chairman of the board.

MONT. CODE ANN. § 38-604 (1947): Duties of the state board of eugenics.

It shall be the duty of this board to approve or disapprove certificate of **sterilization** submitted to them by the chief physician of custodial institution of inmate as provided in section 38-605 and to review the decision of the said chief physician in case of nonconsent on the part of the guardian, or best friend as provided in section 38-606. This board is also hereby empowered to exercise general supervision of matters pertaining to sterilization, over the

chief physician and assistants in custodial institutions, and require from them proper records and data for the determination of the efficiency, benefits and specific efforts of eugenical sterilization.

MONT. CODE ANN. § 38-605 (1947): Responsibility for sterilization.

The sterilization shall be performed by, or under the supervision of the chief physician of the custodial institution of said inmate, whenever he, by his competent examination, and upon the approval of the state board of eugenics finds the said inmate or inmates, to fall within the above named class or classes; provided, however, that before this sterilization takes place it shall be the duty of the said chief physicians to fill out appropriate certificate of said inmate or inmates to be sterilized and present same to the state board of eugenics and secure that board's approval thereof, (the approval to be evidenced by the appropriate endorsement on the back of said certificate by the secretary of said board).

MONT. CODE ANN. § 38-606 (1947): Consent of guardian or kin required before sterilization.

Before making out the certificate mentioned in the above paragraph it shall be the duty of the physician to secure the consent of the legal guardian of said inmate and in case such inmate has no legal guardian, then the consent of his or her nearest known kin within the state of Montana and if such inmate has no known kin within the state of Montana, then the consent of the custodial guardian of such inmate. In all cases when this consent is refused, it should be noted on the certificate by the chief physician, and it then becomes his duty to notify the inmate and his guardian, or nearest known kin within the state of Montana, and in case such inmate has no known kin within the state of Montana, then the custodial guardian of such inmate, of the proposed sterilization, setting

a date for him or them to appear before the state board of eugenics and to show cause why the sterilization should not take place. It shall then be the duty of the state board of eugenics to withhold the approval of the sterilization of said inmate until the said board has heard and passed upon the merits of the objection. At the hearing it shall be the duty of the state board of eugenics to approve or disapprove the sterilization.

Failure of complainants to appear at the hearing after due notices shall be considered as a waiver of all objections.

Upon the approval of the state board of eugenics, the secretary thereof shall endorse the approval on the back of the sterilization certificate of the inmate, and the chief physician shall cause sterilization to proceed as though consent were given.

All decisions of the state board of eugenics shall be appealable to the district court of the district in which the custodial institution of the inmate is located by the objecting party or parties hereinbefore mentioned by filing a petition against the state board of eugenics in the said court, in which case sterilization proceedings shall be suspended until final disposition of the case by the court.

MONT. CODE ANN. § 38-603 (1947): Purpose of acts not punitive.

The **purpose** of said findings and orders of said board and any operation performed thereunder, **shall be the betterment of the physical, mental, neural or psychic condition of said inmate, or to protect society from the menace of procreation by said inmate, and not in any manner as a punitive measure.**

Voting

MONT. CONST. art. IX, § 8 (1889):

No **idiot** or **insane person** shall be entitled to vote at any election in this State.

MONT. CONST. art. IV, § 2 (1979): Qualified elector.

Any citizen of the United States eighteen years of age or older who meets the registration and residence requirements provided by law is a qualified elector unless he is serving a sentence for a felony in a penal institution or is of **unsound mind**, as determined by a court.

NEBRASKA

Institutionalization

1885 Neb. Laws 255: AN ACT to establish and endow an Asylum Home for feeble-minded children and adults at or near the city of Beatrice, Nebraska, and making appropriation and levy therefor.

. . .

That there shall be established in the state of Nebraska an institution to be known and designated as "the Nebraska Institution for Feeble-Minded Youth."

Besides shelter and protection, the prime object of said institution shall be to provide special means of improvement for **that unfortunate portion of the community who were born, or by disease have become imbecile or feeble minded, and by a well adapted course of instruction reclaim them from their helpless condition, and, through the development of their intellectual faculties fit them as far as possible for usefulness in society.**

. . .

Section 7. All **imbecile** or **feeble minded** children and youth between the ages of five (5) and eighteen (18) years, who have been residents of state for the six months that preceded an application for admission, **and who are incapable of receiving instruction in common schools,** shall be entitled to be received into the institution, maintained and educated at the expense of the state, if in the judgment of the superintendent the applicant is a suitable person to receive the benefits.

. . .

Marriage

NEB. REV. STAT. § 42.103 (2000): Marriages; when void.

Marriages are void (1) when either party has a husband or wife living at the time of the marriage, (2) **when either party, at the time of marriage, is mentally incompetent to enter into the marriage relation**, and (3) when the parties are related to each other as parent and child, grandparent and grandchild, brother and sister of half as well as whole blood, first cousins when of whole blood, uncle and niece, and aunt and nephew. This subdivision extends to children and relatives born out of wedlock as well as those born in wedlock.

Segregated Education

NEB. REV. STAT. § 79-3337 (1990): Handicapped children; residential schools; establishment.

The State Department of Education is hereby authorized to **set up one or more approved schools for handicapped children.** These schools shall offer residential facilities for handicapped children which facilities shall be under the control and supervision of the State Department of Education.

Sterilization

1915 Neb. Laws 554:

[Authorizing the sterilization of the "feeble-minded," whose "children would probably become a social menace" and "would be harmful to society."]

Voting

NEB. CONST. art. VI, § 2 (1920): [Who disqualified]

No person shall be qualified to vote who is **non compose mentis**, or who has been convicted of treason or felony under the laws of the state or of the United States, unless restored to civil rights.

NEB. CONST. art. VI, § 2 (1995): [Who disqualified.]

No person shall be qualified to vote who is **non compos mentis,** or who has been convicted of treason or felony under the laws of the state or the United States, unless restored to civil rights.

NEVADA

Travel

NEV. REV. STAT. § 439.270(3) (1988): Physician to report to health division name, age and address of person diagnosed as epileptic.

The health division shall report, in writing, to the department of motor vehicles and public safety the name, age and address of every person reported to it as a case of **epilepsy**.

NEV. REV. STAT. § 439.270(3) (1988): Failure to use guide, hearing or helping dog, blaze orange leash or white cane admissible as evidence of contributory negligence in action against carrier of public accommodation.

The failure of a:

1. **Blind** person to carry a white or metallic colored cane or to use a guide dog or a blaze orange dog leash;

2. **Deaf** person to use a hearing dog or a blaze orange leash; or

3. **Physically handicapped** person to use a helping dog or a blaze orange dog leash, does not constitute contributory negligence per se, but may be admissible as evidence of contributory negligence in a personal injury action by that person against a common carrier or any other means of public conveyance or transportation or a place of public accommodation as defined by NRS 651.050 when the injury arises from the **blind, deaf or physically handicapped** person's making use of the facilities or

services offered by the carrier or place of public accommodation.

Voting

NEV. CONST. art. II, § 1 (1864):

Every male citizen of the United States (not laboring under the disabilities named in this Constitution) of the age of twenty-one years and upwards, who shall have actually, and not constructively, resided in the State six months, and in the district or county thirty days next preceding any election, shall be entitled to vote for all officers that now are or hereafter may be elected by the people; and upon all questions submitted to the electors at such election; *provided*, that no person who has been or may be convicted of treason or felony in any State or Territory of the United States, unless restored to civil rights, and no person who, after arriving at the age of eighteen years, shall have voluntarily borne arms against the United States, or held civil or military office under the so-called Confederate State, or either of them, unless an amnesty be granted to such by the Federal Government, **and no idiot or insane person, shall be entitled to the privilege of an elector.**

NEV. CONST. art. II, § 1 (1999): Right to vote. Qualifications of elector; qualifications of nonelector to vote for President and Vice President of United States.

All citizens of the United States (not laboring under the disabilities named in this constitution) of the age of eighteen years and upwards, who shall have actually, and not constructively, resided in the state six months, and in the district or county thirty days next preceding any election, shall be entitled to vote for all officers that now or hereafter may be elected by the people, and upon all questions submitted to the electors at such election; *provided*, that no

person who has been or may be convicted of treason or felony in any state or territory of the United States, unless restored to civil rights, and **no idiot or insane person shall be entitled to the privilege of an elector.**

NEW HAMPSHIRE

Institutionalization

1901 N.H. LAWS 597: AN ACT to provide for the care and education of feeble-minded children.

. . .

Section 1. The state shall establish and maintain a school for the care and education of the **idiotic** and **feeble-minded**, between three and twenty-one years of age, which shall be known as the **New Hampshire School for the Feeble-minded Children**. All children supported by towns or counties in the state, who in the judgment of the selectmen of towns or county commissioners of the county or state board of charities are capable of being benefited by school instruction, shall be committed to this institution.

. . .

Section 5. Whenever it is made to appear upon application to the judge of probate for any county, and after a proper hearing, that any child resident within said county, and who is not already in any almshouse, the industrial school, or the New Hampshire hospital, or supported by any town or county, is a fit subject for the New Hampshire School for Feeble-minded Children, such judge may commit such child to said New Hampshire School for Feeble-minded Children by any order of commitment directed to the trustees thereof, accompanied by the certificate of two physicians who are graduates of some legally organized medical college and have practiced three years in this state that such child is a suitable subject for said institution. Whenever, upon such application, there is occasion for the judge of probate to attend a hearing on days other than those fixed by statute as

the regular days for the sitting of the probate court he shall be allowed five dollars a day for his services and his expenses, which will be paid by the county treasurer upon the certificate of the county commissioners.

. . .

Section 7. **Feeble-minded** children shall be admitted to the institution in the following order: First, feeble-minded children now in public institutions supported entirely at public expense; second, the feeble-minded children not supported as aforesaid; third, the feeble-minded children of the state not in any public institution, who have no parents, kinsmen, or guardian able to provide for them, or who are committed by a judge of probate; fourth, those residing within the state whose parents, kinsmen, or guardian bound by law to support such children are able to pay; fifth, children of other states whose parents or guardians are able and willing to pay.

. . .

1905 N.H. Laws 413: An act in amendment of section 1, chapter 102, laws of 1901 in relation to the New Hampshire School for [the] feeble-minded.

Amend section 1, chapter 102, Laws of 1901, as amended by section 1, chapter 23, Laws of 1905, by striking out the words "feeble-minded girls" and inserting in place thereof the words the feeble-minded, and also by striking out the words "between three and twenty-one years of age" so that said section as amended shall read as follows: SECTION 1. The state shall establish and maintain a school for the care and education of the **idiotic** and **feeble-minded**, which shall be known as the New Hampshire School for the Feeble-Minded Children. All children supported by towns or counties in the state, who in the judgment of the selectmen of towns or country commissioners of the county or state board

of charities are capable of being benefited by school instruction, shall be committed to this institution. Provision shall also be made for the detention, care and custody of the **feeble-minded**, who are **inmates** of the school, after they reach the age of twenty-one, if in the judgment of the board of trustees their **segregation** seems to be for the best interests of the community.

. . .

Sterilization

1942 N.H. Laws 634: Authorization.

Whenever the superintendent of any state or county institution shall be of opinion that it is for **the best interests of the inmate and of society that any inmate of the institution under his care should be sexually sterilized**, such superintendent is hereby authorized to cause to be performed by some capable surgeon the operation of **sterilization** of any such inmate afflicted with **hereditary forms of insanity that are recurrent, idiocy, imbecility, feeble-minded** or **epilepsy**: provided that such superintendent shall have first complied with the requirements of this chapter; and said operation may be ordered by the superintendent if the board hereinafter authorized so directs and the order is not set aside or modified by the court as hereinafter provided.

. . .

The said board may deny the prayer of the said petition or if the said board shall find that the said inmate is **insane, idiotic, imbecile, feeble-minded** or **epileptic**, and by the laws of heredity is the **probable potential parent of socially inadequate offspring likewise afflicted**, that the said inmate may be **sexually sterilized** without detriment to

his or her general health, and that **the welfare of the inmate and of society will be promoted by such sterilization**, the said board may order the said superintendent to have performed by some competent surgeon to be named in such order, upon the inmate, after not less than thirty days from the date of such order, the operation of **vasectomy** if a male or of **salpingectomy** if a female; provided that nothing herein shall be construed to authorize the operation of castration nor the removal of sound organs from the body.

. . .

Travel

N.H. REV. STAT. ANN. § 155-A:1-a (1990): Exits.

Notwithstanding RSA 155-A:1, all new buildings constructed by the state or any of its agencies, and all new schools, halls, theaters or other public buildings in this state in which **more than 100 people** can be assembled shall be required to provide at least one entrance and exit designed so that the public areas of the entire building are accessible to the handicapped.

NEW JERSEY

Housing Discrimination

N.J. STAT. ANN. § 40:55D-66.1 (1995): Community residences for developmentally disabled or persons with head injuries; community shelters for victims of domestic violence; residential districts; conditional use permits.

Community residences for the **developmentally disabled,** community shelters for victims of domestic violence and community residences for persons with head injuries shall be a permitted use in all residential districts of a municipality, and the requirements therefor shall be the same as for single family dwelling units located within such districts; provided, however, that, in the case of a community residence for the **developmentally disabled,** community shelter for victims of domestic violence or community residence for persons with head injuries housing more than six persons, excluding resident staff, a zoning ordinance may require for the use or conversion to use of a dwelling unit to such a community residence or shelter, **a conditional use permit** in accordance with section 54 of the act to which this act is a supplement (C.40:55D-67). Any requirements imposed for the issuance of a conditional use permit shall be reasonably related to the health, safety and welfare of the residents of the district; provided, however, that **a municipality may deny such a permit to any proposed community residence for the developmentally disabled, community shelter for victims of domestic violence or community residence for persons with head injuries which would be located within 1500 feet of an existing such residence or shelter**; provided further, however that **a municipality may deny the issuance of any additional such permits if the number of persons, other than**

resident staff, resident at existing such community residences or community shelters within the municipality exceeds 50 persons, or 0.5% of the population of the municipality, whichever is greater.

Institutionalization

1898 N.J. Laws 267: AN ACT to provide for the establishment of a home for the care and training of feeble-minded women.

1. *Be it Enacted by the Senate and General Assembly of the State of New Jersey,* That there shall be established in this state a home for the care and training of **feeble-minded women**.

. . .

8. *And be it enacted.* That the governor shall send the **feeble-minded women** of this state to the said home in the manner and by the means provided in a supplement to an act entitled "An act for the instruction and maintenance **indigent deaf and dumb, blind and feeble-minded persons,** inhabitants of this state, which statement was approved March eighth, one thousand and eight hundred and eighty-eight.

. . .

1915 N.J. LAWS 277: AN ACT to amend the title and body of an act entitled "an act to provide for the establishment of a home for the care and training of feeble-minded women. . . ."

Be it enacted by the Senate and General Assembly of the State of New Jersey:

1. The title of the act to which this act is amendatory be and the same is hereby amended to read as follows: "An act to provide for the establishment of a State Institution for Feeble-Minded."

2. There shall be admitted to the institution established by an act entitled "An act to provide for the establishment of a home for the care and training of feeble-minded women," approved March twenty-seventh, one thousand eight hundred and eighty-eight, and the acts amendatory thereof and supplemental thereto, **mentally defective men, women and children, of all ages and grades, whether deaf, dumb, blind or otherwise**; *provided*, the medical superintendent of said institution shall first certify that there is sufficient accommodations in said institution for the care of such feeble-minded person.

. . .

Marriage

N.J. REV. STAT. § 37:1-9 (1959): When issuance of license prohibited.

No marriage license shall be issued when either of the contracting parties, at the time of making application therefor, is infected with gonorrhea, syphilis or chancroid in a communicable stage, is under the influence of intoxicating liquor or a narcotic drug, or is an imbecile or of an unsound mind.

. . .

Segregated Education

N.J. STAT. ANN. § 18A:35-4.8 (West 1990): Medical treatment or examination; objection of parent or guardian.

No pupil whose parent or guardian objects to such pupil receiving medical treatment or medical examination or physical examination shall be compelled to receive such treatment or examination; provided, however, that **no objection shall be made to a physical or medical examination of any physically handicapped child for the purpose of determining whether such child shall be admitted to any class or school for handicapped children** or of any pupil to determine whether he is ill or infected with a communicable disease or of any person who appears to be under the influence of a drug pursuant to P.L.1971, c. 390 (C. 18A:40-4.1).

N.J. STAT. ANN. § 30:6-16 (West 1990): Instruction of deaf and dumb, blind, mentally retarded or mentally deficient persons; children; rates.

An annual sum, the per capita amount of which for each pupil shall be fixed by the State House Commission, when appropriated by the Legislature, may be applied by the commission mentioned in section 30:6-1 of this Title for the instruction or **placing for instruction in a suitable and convenient institution or elsewhere, of deaf and dumb, blind or mentally retarded or mentally deficient persons or partially blind inhabitants of the State as the board may select.**

. . .

Whenever deemed necessary by the commission **blind babies and young children too frail or backward to enter other institutions for the blind shall be sent to some convenient and suitable institution in the State** where

special hospital care, instruction and support can be provided but the rate to be paid by the State including clothing and necessary transportation shall not exceed the rate fixed by the State House Commission.

. . .

Sterilization

1911 N.J. Laws, ch. 190:

[Authorizing the compulsory sterilization of "feeble-minded, epileptics, rapists and confirmed criminals."]

Voting

N.J. CONST. art. II, § 6 (1995):

No **idiot** or **insane person** shall enjoy the right of suffrage.

NEW MEXICO

Employment

N.M. STAT. ANN § 50-4-23 (Michie 1990): Handicapped persons; minimum wage; labor commissioner [director of the labor and industrial division] powers and duties.

A. The state labor commissioner [director of the labor and industrial division], to the extent necessary in order to prevent curtailment of opportunities for employment, shall, by regulation, provide for the **employment** under special certificates of individuals, including individuals employed in agriculture, whose earning or productive capacity is impaired by **physical or mental deficiency** or injury, **at wages which are lower than the minimum wage** applicable under Section 50-4-22 NMSA 1978, but not less than fifty percent of such wage.

. . .

May issue special certificates, which allow the holder thereof to **work at wages which are less than those required by Subsection A** of this section and which are related to the workers' productivity, **for the employment of**:

(1) **handicapped** workers engaged in work which is incidental to training or evaluation programs; and

(2) **multihandicapped individuals** and other individuals whose earning capacity is so severely impaired that they are unable to engage in competitive employment.

. . .

Institutionalization

1925 N.M. Laws 254: An Act to Establish in New Mexico a Home and Training School for Mental Defectives. . . .

Section 1. The words "mental defective" in this Act, shall be understood to mean any **person mentally underdeveloped** or **faultily developed** to the degree that he is incapable of managing himself and his affairs, and requires supervision, care and control for his own welfare, or for the **welfare of others, or for the welfare of the community**, and which **mentally defective person** is not classified as an insane person, nor merely **backward** or **mentally retarded**.

Section 2. There shall be established and hereafter maintained by this State an institution to be known as "**The Home and Training School for Mental Defectives**," for the care, custody, employment, education and training of mental defectives.

. . .

Any person over the age of twenty-one years may file with the clerk of the district court in the district wherein any such alleged **mentally defective** person resides, a petition and affidavit showing that there is within the jurisdiction of said court a person **mentally defective**, . . . and if upon examination and hearing had, such person shall be found to be mentally defective, within the definition and provisions of this Act, the court may enter its order for the transfer of the **mentally defective** person to the institution herein created.

Segregated Education

N.M. STAT. ANN. § 21-5-5 (Michie 1990): Parents and guardians **required to send blind students to institute**; exceptions.

Every parent, guardian or person having control or custody of any child who is between the ages of five and the age of majority, and who, **on account of a visual handicap[,] cannot be educated in the public schools, shall send such child to the New Mexico school for the visually handicapped** at Alamogordo during each school year for a period of seven years, unless the child is taught the subjects as are taught in the school in a private school, at home, or in a similar institution in another state, or unless the child is suffering from a physical or mental disability sufficient to incapacitate him from attending the school.

N.M. CONST. art. XII, § 5 (2000):

Every child of school age **and of sufficient physical and mental ability** shall be required to attend a public school.

Voting

N.M. CONST. art. VII, § 1 (1918): Elective Franchise.

Section 1. Every male citizen of the United States, who is over the age of twenty-one years, and has resided in New Mexico twelve months, in the county ninety days, and in the precinct in which he offers to vote thirty days, next preceding the election, **except idiots, insane persons**, persons convicted of a felonious or infamous crime, unless restored to political rights, and Indians not taxed, shall be qualified to vote at all elections for public officers.

. . .

N.M. CONST. art. VII, § 1 (1992): [Qualifications of voters; absentee voting; school elections; registration.]

Every citizen of the United States, who is over the age of twenty-one years, and has resided in New Mexico twelve months, in the county ninety days, and in the precinct in which he offers to vote thirty days, next preceding the election, except **idiots**, **insane persons**, persons convicted of a felonious or infamous crime, unless restored to political rights, shall be qualified to vote at all elections for public officers. The legislature may enact laws providing for absentee voting by qualified electors.

. . .

NEW YORK

Institutionalization

1919 N.Y. LAWS 1683: An Act in relation to mental defectives, constituting Chapter seventy-one of the consolidated laws.

. . .

This chapter shall be known as the "Mental Deficiency Law.

Section 2. Definitions. When used in this chapter:

. . .

"Mental defective" means any person afflicted with **mental defectiveness** from birth or from an early age to such an extent that he is incapable of managing himself and his affairs, who **for his own welfare or the welfare of others or of the community** requires supervision, control or care, and who is not insane or of unsound mind to such an extent as to require his commitment to an institution for the insane as provided by the insanity law;

. . .

Section 17. Colonies. Whenever in the judgment of the superintendent and the board of managers of any state institution for **mental defectives** there is a group of inmates in such institution of such a character that their interests and the interests of the state would both be better served through their **colonization** outside of such institution and if such colony can be established without damage to private property or **detriment to the public welfare** these facts may be

brought to the attention of the commission and if the commission shall approve, it may authorize the superintendent with the approval of the board of managers to establish such a colony.

. . .

Marriage

N.Y. DOM. REL. LAW § 7 (McKinney 2000): Voidable marriages.

A marriage is **void** from the time its nullity is declared by a court of competent jurisdiction if either party thereto:

. . .

2. Is incapable of consenting to a marriage for **want of understanding**;

3. Is incapable of entering into the married state from physical cause;

4. Consent to such marriage by reason of force, duress or fraud;

5. Has been **incurably mentally ill** for a period of five years or more.

Segregated Education

N.Y. EDUC. LAW § 3208 (McKinney 1947): Attendance of minors, proper mental and physical condition.

1. A minor included by the provisions of part one of this article shall be required to attend upon instruction only if in proper mental and physical condition.

2. A minor whose mental or physical condition is such that his attendance upon instruction under the provisions of part one of this article would endanger the health or safety of himself or of other minors, or who is **feebleminded to the extent that he is unable to benefit from instruction, shall not be permitted to attend.**

. . .

N.Y. EDUC. LAW § 3208 (McKinney 1990): Attendance; proper mental and physical condition.

1. A person included by the provisions of part one of this article shall be required to attend upon instruction only if in **proper mental and physical condition**.

2. A person whose mental or physical condition is such that his attendance upon instruction under the provisions of part one of this article would endanger the health or safety of himself or of others **shall not be permitted to attend.**

. . .

Sterilization

1912 N.Y. Laws 924:

[Act permitted sterilization of any institutionalized person who, in the judgment of the state board, "would produce children with an inherited tendency" to "feeble-mindedness, idiocy or imbecility."]

Travel

1847 N.Y. Laws 182, ch. 195: AN ACT concerning passengers in vessels coming to the city of New York.

. . .

Section 1. Within twenty-four hours after the arrival of any ship or vessel at the port of New-York, from any of the United States, other than this state, or from any country out of the United States, the master or commander of such ship or vessel, shall make a report in writing, on oath or affirmation, to the mayor of the city of New-York, or in case of his absence or other inability to serve, to the person discharging the duties of his office, which report shall state the name, place of birth, last legal residence, age and occupation of every person or passenger arriving in such ship or vessel, on her last voyage to said port, not being a citizen of the United States, and who shall have, within the last preceding twelve months arrived from any country out of the United States, at any place within the United States, and who shall not have paid the commutation money mentioned in the next section of this act, or have been bonded, or paid any commutation money, under the provisions of the act entitled "An act concerning passengers in vessels coming to the port of New-York," passed February 11, 1824: The said report shall contain a like statement of all such persons or passengers as aforesaid, as shall have been landed, or been suffered to land from any such ship or vessel, at any place during such last voyage, or who shall have been put on board, or been suffered to go on board of any other ship, vessel or boat, with the intention of proceeding to or through the said city of New-York: **The said report shall further specify whether an of said passengers so reported are lunatic, idiot, deaf and dumb, blind or infirm**, and if so, whether they are accompanied by relatives likely to be able to support them; and shall further specify particularly, the

names, last place of residence, and ages of all passengers who may have died during said last voyage of such vessel: In case any such master or commander shall omit or neglect to report as aforesaid, any such person or passenger, with the particulars aforesaid, or shall make any false report or statement in respect to any such person or passenger, in all or any of the particulars herein before specified, such master or commander shall forfeit the sum of seventy-five dollars for each such passenger, in regard to whom any such omission or neglect shall have occurred, or any such false report or statement shall be made, for which the owner or owners of every such ship or vessel, shall also be liable, jointly and severally, and which may be sued for and recovered as hereinafter provided.

. . .

Section 3. It shall be the duty of the commissioners of emigration hereinafter named, to examine into the condition of passengers arriving at the port of New-York in any such ship or vessel, and for that purpose all or any of the said commissioners, and such other person or persons as they shall appoint, shall be authorized to go on board, and through any such ship or vessel; and if on such examination, there shall be found among such passengers, any **lunatic**, **idiot**, **deaf and dumb**, **blind** or **infirm** persons, not members of emigrating families, and who, from attending circumstances, are likely to become permanently a public charge, they shall report the name to the said mayor particularly; and thereupon the said mayor, or the person discharging the duties of his office as aforesaid, shall, instead of the commutation money aforesaid, require, in the endorsement to be made as aforesaid, or in any subsequent endorsement or endorsements thereon, that the master or commander of such ship or vessel, with two sufficient sureties, shall execute a joint and several bond to the people of this state, in a penalty of three hundred dollars for every such passenger, conditioned to indemnify

and save harmless, each and every city, town and county within this state, from any cost or charge, which any such city, town or county shall incur, for the maintenance or support of the person or persons named in such bond, or any of them, within five years from the date of such bond. The sureties to the said bonds shall be required to justify before, and to the satisfaction of the officer making such endorsement, and by their oath or affirmation, shall satisfy such officer, that they are, respectively, residents of the state of New-York, and worth double the amount of the penalty of such bond, over and above all debts, liabilities, and all property exempt form execution.

Voting

N.Y. ELEC. LAW § 5-106 (McKinney 2000): Qualifications of voters; reasons for exclusion.

. . .

6. No person who has been adjudged incompetent by order of a court of competent judicial authority shall have the right to register for or vote at any election in this state unless thereafter he shall have been adjudged competent pursuant to law.

NORTH CAROLINA

Housing Discrimination

N.C. GEN. STAT. § 168-22 (1999): Family care home; zoning and other purposes.

(a) A family care home shall be deemed a residential use of property for zoning purposes and shall be a permissible use in all residential districts of all political subdivisions. No political subdivision may require that a family care home, its owner, or operator obtain, because of the use, a conditional use permit, special use permit, special exception or variance from any such zoning ordinance or plan; provided, however, that **a political subdivision may prohibit a family care home from being located within a one-half mile radius of an existing family care home.**

(b) A family care home shall be deemed a residential use of property for the purposes of determining charges or assessments imposed by political subdivisions or businesses for water, sewer, power, telephone service, cable television, garbage and trash collection, repairs or improvements to roads, streets, and sidewalks, and other services, utilities, and improvements.

Managing Own Affairs

N.C. GEN. STAT. § 111-4 (1990): Register of State's blind.

It shall be the duty of the Department of Human Resources to cause to be maintained **a complete register of the blind in the State of North Carolina**, which shall describe the condition, cause of blindness, capacity for education and industrial training of each, with such other

facts as may seem to the Department of Human Resources to be of value.

N.C. GEN. STAT. § 58-51-35 (1990): Insurers and others to afford coverage to mentally retarded and physically handicapped children.

(a) No insurance company licensed in this State pursuant to the provisions of Articles 1 through 64 of this Chapter and no corporation governed by the provisions of Articles 65 and 66 of this Chapter shall refuse to issue or deliver any individual or group accident and health insurance policy of hospital or medical service plan policy in this State which it is currently issuing for delivery in this State and which affords benefits or coverage for minor children of the applicant, by reason of the physical handicap or mental retardation of any minor children of the applicant, nor shall any such policy issued and delivered in this State carry a higher premium rate or charge or restrict or exclude coverage or benefits by reason of said mental retardation or physical handicap. **Provided, however, such policy may exclude benefits, otherwise payable for disability, hospitalization, or medical or other therapeutic expense directly and solely attributable to such mental retardation or such physical handicap.**

. . .

Marriage

N.C. GEN. STAT. § 51-3 (1977): Want of capacity; void and voidable marriages.

All marriages between any two persons nearer of kin than first cousins, or between double first cousins, or between a male person under 16 years of age and any female, or between a female person under 16 years of age and any

male, or between persons either of whom has a husband or wife living at the time of such marriage, or between persons either of whom is at the time physically impotent, or **between persons either of whom is at the time incapable of contracting from want of will or understanding shall be void.** No marriage followed by cohabitation and the birth of issue shall be declared void after the death of either of the parties for any of the causes stated in this section except for bigamy. No marriage by persons either of whom may be under 16 years of age, and otherwise competent to marry, shall be declared void when the girl shall be pregnant, or when a child shall have been born to the parties unless such child at the time of the action to annual shall be dead. A marriage contracted under a representation and belief that the female partner to the marriage is pregnant, followed by the separation of the parties within 45 days of the marriage which separation has been continuous for a period of one year, shall be voidable unless a child shall have been born to the parties within 10 lunar months of the date of separation.

Segregated Education

1965 N.C. Sess. Laws. 641: An Act to Amend Certain Section of Chapter 115 of the General Statutes Relating to the Public School System. . . .

. . .

Sec. 115-165. Children Not Entitled to Attend Public Schools. **A child so severally afflicted with mental, emotional, or physical incapacity as to make it impossible for such child to profit by instruction given in the public schools shall not be permitted to attend the public schools of the state.** In case the child is presented for enrollment in the public schools, it shall be the duty of the county or city superintendent of schools to make, or cause to be made by qualified psychologists and/or medical authorities, an

examination to determine whether said child can profit by attending the public schools. Upon a receipt of a report indicating that the child cannot profit from instruction given in the public schools the county or city superintendent of schools is hereby authorized to **exclude said child from the public schools**, a complete record of the transaction shall be filed in the office of the county or city superintendent, the office of the county director of public welfare, and the office of the county health officer, and shall be available to all parties concerned. **If the parent or guardian of such a child persists is forcing his attendance after such report has determined that the child should not attend the public schools, he shall be guilty of a misdemeanor and upon conviction shall be punished in the discretion of the court.**

Sterilization

1929 N.C. Sess. Laws 28:

. . .

[Superintendent] authorized and directed to have the necessary operation for **asexualization** or **sterilization** performed upon any **mentally defective** or **feeble-minded inmate** or patient thereof, as may be considered best in the interest of the mental, moral, or physical improvement of the patient or inmate, or **for the public good**.

. . .

Voting

N.C. GEN. STAT. § 163-69.2 (1990): Accessible polling places.

(a) The State Board of Elections shall promulgate rules to assure that any handicapped or elderly voter assigned to an **inaccessible polling place,** upon advance request of such voter, will be assigned to an accessible polling place. Such rules should allow the request to be made in advance of the day of the election.

(b) Words in this section have the meanings prescribed by P.L. 98-435.

NORTH DAKOTA

Institutionalization

1903 N.D. Laws 142: An Act to Establish an Institution for the Feeble Minded and to Provide for its Support and Management.

. . .

All **feeble minded persons** residents of this state who, in the opinion of the superintendent, are of suitable age and capacity to receive instruction in this institution, and whose **defects prevent them from receiving proper training** in the public schools of the state, and **all idiotic and epileptic** persons residents of this state may be admitted to and receive the benefits of this institution free of charge, subject to such rules and regulations as may be made by the board of trustees; and they shall be provided by their friends, relatives, or the county from which they come, sufficient funds to furnish them with proper clothing and transportation.

. . .

1909 N.D. Laws 222: An Act to Amend Section 1 of Chapter 213 of the Laws of 1909, Relating to the Inmates of the Institution for the Feeble Minded.

. . .

All **feeble minded persons** residents of this state, who, in the opinion of the superintendent, are of suitable age and capacity to receive instruction in the Institution for Feeble Minded, and whose **defects** prevent them from receiving proper training in the public schools of the state,

and all **idiotic** and **epileptic** persons resident of this state, may be admitted to and receive the benefits of the institution, subject to payment of the sums hereinafter provided, and to such rules and regulations as may be made by the Board of Control.

. . .

Section 3. Whereas, an emergency exists in the fact that there is now no law for compulsory commitment of **feeble minded persons obnoxious to the peace and good morals of the public**, therefore, this Act shall take effect and be in force from and after its passage and approval.

Marriage

N.D. CENT. CODE § 14-03-7 (1967): Marriages prohibited.

Marriage by a woman under the age of forty-five years or by a man of any age, unless he marries a woman over the age of forty-five years, is prohibited if such a man or woman is a chronic alcoholic, an habitual criminal, a **mentally deficient person**, an **insane person**, a person who has been afflicted with **hereditary insanity**, or with any contagious venereal disease.

N.D. CENT. CODE § 14-03-7 (1991): Prohibited marriages.

Marriage by a woman under the age of forty-five years or by a man of any age, unless he marries a woman over the age of forty-five years, is prohibited if such a man or woman is institutionalized as **severely retarded.**

Segregated Education

N.D. CENT. CODE § 15-34.1-02 (1981): Compulsory attendance – Deaf, blind, or mentally deficient persons.

Every parent, guardian, or other person who has control over any **deaf** child of at least four years of age, or control over any **blind**, or **mentally deficient** child of an age of seven years to twenty years, **shall send the child, if deaf, to the school for the deaf at Devils Lake or other adequate institution for the entire school year**, unless excused by the superintendent of that institution; and **if blind, to the school for the blind at Grand Forks or other adequate institution for the entire school year**, unless excused by the superintendent of said institution; and **if mentally deficient, to the Grafton state school or other adequate institution for the entire school year**, unless excused by the superintendent of that institution. Adequate institution shall mean any school, public or private, specializing in the training of handicapped children as stated.

N.D. CENT. CODE § 15-34.1-03 (1981): Compulsory attendance – Exceptions.

The parent, guardian, or other person having control of a child required to attend school by the provisions of this chapter shall be excused by the school board from causing the child to attend school whenever it shall be shown to the satisfaction of the board, subject to appeal as provided by law, that one of the following reasons exists:

That the child is in such physical or mental condition as to render attendance or participation in the regular or special education program inexpedient or impracticable.

Sterilization

N.D. CENT. CODE § 23-0863 (1943): Heads of State Institutions Report Persons Who Should Be Sterilized to Board of Examiners.

The warden, superintendent, or other head of the penitentiary, the state hospital for the insane, the state training school, and the Grafton state school shall report quarterly to the board of examiners each **feeble-minded**, **insane**, and **epileptic** person and each habitual criminal, moral degenerate, and sexual pervert within his institution **who is a potential producer of offspring and who, because of the inheritance of inferior or antisocial traits, probably would become social menaces or wards of the state.** The criminals who shall come within the operation of the provisions of this chapter shall be those who are moral degenerates and sexual perverts or who are addicted to the practice of sodomy, the crime against nature, or to other gross, bestial, and perverted sexual habits and practices prohibited by statute.

N.D. CENT. CODE § 23-0806 (1943): When Sterilization Ordered.

If, in the judgment of all the members of the board of examiners, **procreation by any person reported to it under the provision of this chapter would produce children with an inherited tendency to feeble-mindedness, insanity, epilepsy**, criminality, or degeneracy, and **there is no probability that the condition of the person so examined will improve to such an extent as to render procreation by any such person advisable, or if the physical or mental condition of any such person will be substantially improved by sterilization**, the board, after the examination and hearing, shall make an order requiring the person to be **sterilized**.

N.D. CENT. CODE § 23-0815 (1943): Purpose of Sterilization: Not Used as Punitive Measure.

The purpose of an examination, findings, and order of the board of examiners provided for in this chapter shall be the betterment of the physical, mental, neural, or psychic condition of the inmate, or the **protection of society from the menace of procreation by said inmate**, and shall not in any manner be used as a punitive measure. No person shall be sterilized under the authority of this chapter unless such operation shall be found to be necessary to improve the physical, mental, neural, or psychic condition of the inmate or to **prevent such inmate from producing offspring that would become a menace to society or a ward of the state**.

Voting

N.D. CONST. art. V, § 127 (1889):

No person who is **under guardianship, no compos mentis or insane**, shall be qualified to vote at any election, nor shall any person convicted of treason or felony, unless restored to civil rights.

N.D. CONST. art. II, § 2 (1998):

No person who has been declared **mentally incompetent** by order of a court or other authority having jurisdiction, which order has not been rescinded, shall be qualified to vote.

OHIO

Housing Discrimination

OHIO REV. CODE ANN. § 5123.19 (2000): Residential facilities; licensing; inspection; operation.

. . .

(B) Every person or government agency desiring to operate a residential facility shall **apply for licensure** of the facility to the director of mental retardation and developmental disabilities unless the residential facility is subject to section 3721.02, 3722.04, 5103.03, or 5119.20 of the Revised Code. Notwithstanding Chapter 3721. of the Revised Code, a nursing home that is certified as an intermediate care facility for the mentally retarded under Title XIX of the "Social Security Act," 49 Stat. 620 (1935), *42 U.S.C.A. 301*, as amended, shall apply for licensure of the portion of the home that is certified as an intermediate care facility for the mentally retarded.

. . .

In accordance with Chapter 119. of the Revised Code, the director shall adopt and may amend and rescind rules for licensing and regulating the operation of residential facilities. The rules shall establish the following:

(1) Procedures for issuing, denying, and revoking licenses;

(2) Fees for issuing licenses;

(3) Procedures for the inspection of residential facilities;

(4) Requirements for the training of residential facility personnel;

(5) Classifications for the various types of residential facilities;

(6) Certification procedures licenses and management contractors that the director determines are necessary to ensure that they have the skills and qualifications to properly operate or manage residential facilities;

(7) The maximum number of persons who may be served in a particular type of residential facility;

(8) Uniform procedures for admission of persons to and transfers and discharges of persons from residential facilities;

(9) Other standards for the operation of residential facilities and the services provided at residential facilities;

(10) Procedures for waiving any provision of any rule adopted under this section.

. . .

(J) Before issuing a license under this section to a residential facility that will accommodate at any time more than one **mentally retarded** or **developmentally disabled** individual, the director shall, by first class mail, **notify** the following:

(1) If the facility will be located in a municipal corporation , the clerk of the legislative authority of the municipal corporation;

(2) If the facility will be located in unincorporated territory, the clerk of the appropriate board of county commissioners and the clerk of the appropriate board of township trustees.

The director shall not issue the license for ten days after mailing the notice, excluding Saturdays, Sundays, and legal holidays, in order to give the notified local officers time in which to comment on the proposed issuance.

Any legislative authority of a municipal corporation, board of county commissioners, or board of township trustees that receives notice under this division of the proposed issuance of a license for a residential facility may comment on it in writing to the director within ten days after the director mailed the notice, excluding Saturdays, Sundays, and legal holidays. If the director receives written comments from any notified officials within the specified time, the director shall make written findings concerning the comments and the director's decision on the issuance of the license. If the director does not receive written comments from any notified local officials within the specified time, the director shall continue the process for issuance of the license.

(K) Any person may operate a licensed family home as a permitted use in any residential district or zone, including any single-family residential district or zone, of any political subdivision. Family homes may be required to comply with area, height, yard, and architectural compatibility requirements that are uniformly imposed upon all single-family residences within the district or zone.

(L) Any person may operate a licensed group home as a permitted use in any multiple-family residential director or zone of any political subdivision, except that a political subdivision that has enacted a zoning ordinance or resolution establishing planned unit development districts may **exclude**

group homes from such districts, and a political subdivision that has enacted a zoning ordinance or resolution may **regulate group homes** in multiple-family residential districts or zones as a conditionally permitted use or special exception, in either case, under reasonable and specific standards and conditions set out in the zoning ordinance or resolution to:

(1) Require the architectural design and site layout of the home and the location, nature, and height of any walls, screens, and fences to be compatible with adjoining land uses and the residential character of the neighborhood;

(2) Require compliance with yard, parking, and sign regulations;

(3) **Limit excessive concentration of homes.**

. . .

Institutionalization

1919 OHIO LAWS 430: To provide an additional institution for the custody and care of the feeble-minded and to make appropriation therefor.

Be it enacted by the General Assembly of the State of Ohio:

Section 1. In addition to the institution for feeble-minded, an additional institution of the state for the custody supervision, control, care, maintenance and training of **feeble-minded persons** committed to the custody and care of the Ohio board of administration shall be established and located, in the northern or in the southern part of the state, **at such point as the Ohio board of administration may be determine to be most suitable therefor and best adapted to the public convenience and welfare**, having regard to the

location of the present institution for feeble-minded, the centers of population in the northern and southern parts of the state, respectively, the availability of land suitable for such institution, and due economy in the acquisition of desirable site, provided, however, that nothing herein contained shall prevent the Ohio board of administration in its discretion from receiving in any of the institutions for feeble-minded, feeble-minded persons committed to its custody and care from any county in the state.

. . .

Segregated Education

OHIO REV. CODE ANN. § 3321.04 (Anderson 1975): Compulsory attendance.

Every parent, guardian, or other person having charge of any child of compulsory school age who is not employed under an age and schooling certificate and who has **not been determined to be incapable of profiting substantially by further instruction**, must send such child to a school, which conforms to the minimum standards prescribed by the state board of education, for the full time the school attended is in session, which shall not be for less than thirty-two weeks per school year. Such attendance must begin within the first week of the school term or within one week of the date on which the child begins to reside in the district or within one week after his withdrawal from employment.

OHIO REV. CODE ANN. § 3325.02 (Anderson 1985): Admission to school for the blind.

Subject to the regulations adopted by the state board of education, the state school for the blind shall be open to receive such blind and partially blind persons, residents of this state, who, in the judgment of the superintendent of

public instruction and the superintendent of the school for the blind, due to such handicap, **cannot be educated in the public school system** and are suitable persons to receive instructions according to the methods employed in such school.

Voting

OHIO CONST. art. V, § 6 (1918): Idiots or insane persons.

No **idiot,** or **insane person**, shall be entitled to the privileges of an elector.

OHIO CONST. art. V, § 6 (1994): Idiots or insane persons.

No **idiot**, or **insane person**, shall be entitled to the privileges of an elector.

OKLAHOMA

Housing Discrimination

OKLA. STAT. ANN. tit. 41, § 113.1 (West 1990): Denial or termination of tenancy because of guide, signal or service dog.

A landlord shall not deny or terminate a tenancy to a blind, deaf, or physically handicapped person because of the guide, signal, or service dog of such person **unless such dogs are specifically prohibited in the rental agreement** entered into prior to November 1, 1985.

OKLA. STAT. tit. 60, § 863 (1999): Establishment of group home-- Procedure.

A. 1. A group home is a residential use of property for the purposes of zoning and shall be treated as a permitted use in all residential zones or districts, including all single-family residential zones or districts of all political subdivisions of this state. No political subdivision may require that a group home, its owner, or operator obtain a conditional use permit, special use permit, special exception, or variance different from those required for other dwellings of similar density in the same zone; provided, however, prior to the establishment of a group home in any residential area within a political subdivision, the owner of such home shall file with the political subdivision an application for the establishment of such group home in such residential area. **The political subdivision shall provide for notice to be given to all affected real property owners.** The notice shall contain a legal description of the property and the street address or approximate location of the group home.

For the purposes of this section, the term "=bwpt=affected real property owners=ewpt=" shall mean all owners of real property which is located within thee hundred (300) feet of the exterior boundary of the property on which the group home is to be located. The political subdivision may deny the application if the owner of the group home fails to obtain a license from the Department of Human Services or if the group home fails to comply with the spacing requirements of subsection B of this Section.

. . .

2. For the purposes of safeguarding the health and safety of persons with developmental or physical disabilities and avoiding an over-concentration of group homes, either along or in conjunction with similar community-based residences, within one hundred eighty (180) days of the effective date of the Community Residential Living for Persons with Development or Physical Disabilities Act, the Commission for Human Services shall promulgate rules which shall encompass the following matters:

a. limitations on the number of new group homes to be permitted on blocks, block faces, and other appropriate geographic areas, to **one thousand two hundred (1,200) feet between group homes, or similar community residential facilities serving persons in drug, alcohol, juvenile, child, parole, and other programs of treatment, care supervision, or rehabilitation in a community setting,**

. . .

C. In order to facilitate the implementation of subparagraph a of paragraph 2 of subsection B of this section, the Department **shall maintain a list of the location, capacity, and current occupancy of all group homes.** The Department shall ensure that this list shall not contain the

names or other identifiable information about any residents of such home and that copies of this list shall be available upon request to any resident of this state and any state agency or political subdivision.

Institutionalization

1909 Okla. Sess. Laws 534: AN ACT to establish an institution for the care, training and custody of **feeble-minded, idiotic**, and **imbecile** children; and the care and custody of **feeble minded,** idiotic and **imbecile female** adults. . . .

Section 1. There is hereby established on section 33, township 23 North, range 6, West of Indian Meridian in Garfield county, Oklahoma, an institution to be known as the **Oklahoma Institution for the Feeble-minded.**

. . .

Section 3. The purposes of said institution shall be to care for, support, train and instruct **feeble-minded** children, and care for, support and **control female imbeciles** between the ages of sixteen and forty-five years. Until a special institution for epileptics shall be established by the State of Oklahoma, the board of managers may also admit **epileptics** to said institution so far as they shall have room for them, under such rules and regulations as may be prescribed by the said board of managers and approved by the Governor of the state; provided, that so long as there shall be sufficient room not occupied by feeble-minded children, the said board of managers may also admit feeble-minded persons of an age, provided that the parents, guardian or friends of such feeble-minded persons shall pay the entire cost of their support and furnish their clothing as hereinafter provided.

. . .

Section 5. Said institution shall be divided into two distinct departments, viz: A training school department and an asylum department. Each of these said departments may be divided in such manner as the board of managers may designate. In all cases a strict separation of the sexes shall be enforced. The inmates of the training school department shall be the **feeble-minded** and **imbecile children of the higher grade who are capable of receiving instruction and training**. The inmates of the asylum department shall be the **feeble-minded and idiotic children of the lower grade who are not capable of receiving instruction, and the female adults**. As soon as there shall be suitable buildings provided for the purpose, the **adult females shall be strictly separated from all other classes; provided, that such of the adult females as are capable of domestic or other labor may be employed in any part of the institution where their labor can be utilized;** provided; further, that the superintendent with the approval of the board of managers, may transfer any inmate from the training school department to the asylum department, or from the asylum department to the training department.

. . .

Managing Own Affairs

OKLA. STAT. ANN. tit. 37, § 537 (West 1990): Enumerated prohibited acts.

A. No person shall:

. . .

2. Sell, deliver or knowingly furnish alcoholic beverages to an intoxicated person or to any person who has been adjudged insane or **mentally deficient**.

. . .

Segregated Education

OKLA. STAT. ANN. tit. 70, § 1744 (West 1990): Compulsory education.

Every parent, company, guardian, corporation, association, person or persons, within the State of Oklahoma, having control or charge of any **deaf child** or person, between the ages of seven (7) and twenty-one (21), **shall be required to send such child or person to some suitable school, where deaf children are taught and educated**, for a period of at least six (6) months in each year; provided that this shall not apply to any such child or person where skilled private instruction is given for the same length of time each year.

OKLA. STAT. ANN. tit. 70, § 1210.171 (West 1990): Appropriate education for deaf or hard-of-hearing children.

A. It shall be the right of every child who is **deaf or so hard of hearing that he cannot participate in the regular public school program** to receive an appropriate education at the expense of the State of Oklahoma. It shall be the duty of every school district to seek out and identify every such child between the ages of two (2) and twenty-one (21) years at the earliest possible age under procedures to be prescribed by regulations of the State Department of Education. **It shall be the duty of every parent or other person having custody of such child to cause such child to be enrolled in and attend a school which provides special education for such deaf children.**

Sterilization

1931 Okla. Sess. Laws 80:

[Authorizing the compulsory sterilization of persons afflicted with "idiocy" or "imbecility."]

Voting

1910 Okla. Sess. Laws. 284: Senate Concurrent Resolution No. 31. Suggesting an amendment to the Constitution.

. . .

No person shall be registered as an elector of this state, or be allowed to vote in any election held herein, **unless he be able to read and write any section of the Constitution of the State of Oklahoma;** but no person who was, on January 1, 1866, or at any time prior thereto entitled to vote under any form of government, or who at that time resided in some foreign nation and no lineal descendant of such person shall be denied the right to register and vote because of his inability to so read and write sections of such Constitution.

OKLA. CONST. art. III, § 1 (1917): Suffrage.

. . .

Provided, that no person adjudged guilty of a felony, subject to such exceptions as the legislature may prescribe, nor any person kept in a poor house at public expense, except Federal, Confederate and Spanish-American ex-soldiers or sailors, nor any person in a public prison, **nor any idiot or lunatic, shall be entitled to register and vote.**

Okla. Const. art. III, § 1 (1952): Qualifications of electors – Persons disqualified.

That no person adjudged guilty of a felony after the adoption of this constitution, subject to such exceptions as the legislature may prescribe, unless his citizenship shall have been restored in the manner provided by law; nor any person, while kept in a poorhouse or other asylum at the public expense, except Federal and confederate ex-solders; nor any person in a public prison, nor any **idiot** or **lunatic** shall be entitled to vote at any election under the laws of this State.

OKLA. CONST. art. III, § 1 (1965): Qualifications of electors – Persons disqualified.

. . .

No person shall be qualified elector of this state who is adjudged guilty of a felony, who is detained in a penal or correction institution, **who is a patient in an institution for mental retardation, or who has been committed, by judicial order, to an institution for mental illness**.

OREGON

Employment

1913 Or. Laws 92:

[Special licenses can be obtained to allow "**crippled**" women to be hired to **work for less than minimum wage.**]

OR. REV. STAT. § 653.030 (1989): Commissioner may prescribe lower rates in certain cases.

The commissioner shall issue rules prescribing the employment of other types of persons at fixed minimum hourly wage rates lower than the minimum wage rate required by ORS 653.025, when the commissioner has determined that the application of ORS 653.025 would substantially curtail opportunities for employment for specific types of persons. **The types of persons for whom a minimum hourly wage rate may be set are limited to persons who are mentally or physically handicapped** or who are student-learners.

Institutionalization

1907 Or. Laws 144: AN ACT. Creating the State Institution for Feeble-Minded, and providing for its support, maintenance, management, and control; the admission, support, transfer and discharge of its inmates, and the payment of their expenses, and appropriating money therefor.

Be it enacted by the State or Oregon:

Section 1. There shall be established an institution for the training, care and custody of **feeble-minded, idiotic,**

and **epileptic** persons under the name and style of the "State Institution for Feeble-Minded."

. . .

Section 8. All **feeble-minded persons** who are residents of the State, who, in the opinion of the superintendent of said institution, are of suitable age and capacity to receive instruction in said institution, and **whose defects prevent them from receiving proper training in the public schools,** and all **idiot** and **epileptic persons** who are, and have been for a period not less than one year, residents of the State, may be admitted to their respective departments in said institution under such conditions and regulations as the board of trustees may provide.

. . .

Marriage

1921 Or. Laws 343:

[Physician check up requirement was extended to include both the man and the woman seeking to enter the marriage relation. In addition to checking to see if the parties were free from venereal disease, it was the physician's duty to make sure the parties met the **appropriate standard of "mentality**."]

Segregated Education

1929 Or. Laws 357:

[Duty to provide educational opportunities for handicapped children either through **home school** or through setting up a **separate school**.]

Sterilization

1923 Or. Laws. 397:

. . .

The Superintendent of the Oregon state hospital, state institutions for the feeble-minded, the Oregon state penitentiary, the Oregon state training schools for boys, the Oregon state industrial school for girls, and all Oregon state health officers shall report for all persons who are **feeble-minded, epileptic**, habitual criminals, moral degenerates, and sexual perverts, who are, **or in his opinion, are likely to become a menace to society**. If convicted of rape, sodomy, or crime against nature, or any other crime specified in section 14-734 of Oregon code, or of attempting to commit any of said crimes, copy of record of conviction shall be forwarded to the State Board of Eugenics.

. . .

1923 Or. Laws 280:

. . .

Board of Eugenics shall examine the "innate traits" and if the board thinks the person **would produce children "having a tendency" to "feeble-minded, insanity, epilepsy, criminality, or degeneracy** or who would probably become a ward of the state" and there is no probability of improvement of the individual then the **Board has a "duty" to order sterilization of the individual.**

. . .

Voting

OR. CONST. art. II, § 3 (1918): Suffrage and Elections.

. . .

Section 3. No **idiot** or **mentally diseased** person shall be entitled to the privilege of an elector.

. . .

PENNSYLVANIA

Institutionalization

1913 PA. LAWS 494: AN ACT supplementing and amending an act, entitled "An act to provide for the selection of a site and the erection of a State Institution for the Feeble-Minded and Epileptic, to be called the Eastern Pennsylvania State Institution for the Feeble-Minded and Epileptic, and making an appropriation therefor," approved the fifteenth day of May, Anno Domini one thousand nine hundred and thirteen.

. . .

Section 1. Be it enacted . . . , that the Eastern Pennsylvania State Institution for the Feeble-Minded and Epileptic shall be devoted to the **segregation**, care, maintenance, treatment, training, and education of **epileptic**, **idiotic**, **imbecile**, or **feeble-minded** persons of both sexes.

. . .

1913 PA. LAWS 1319: To establish a State village for feeble-minded women; . . . and providing for the commitment thereto of feeble-minded females between the ages of sixteen and forty-five years . . . .

Section 1. Be it enacted. . . ., that a **State village for feeble-minded women,** for the care of feeble-minded women between the ages of sixteen and forty-five, is hereby constituted and established, the ground and buildings for which are hereby directed to be selected and constructed, which village shall be governed and maintained in the manner hereafter provided, and shall be known as the Pennsylvania Village for Feeble-Minded Women. That this institution shall be entirely and specifically devoted to the

reception, **segregation, detention**, care and training of feeble-minded women of child-bearing age; and shall be so planned, in the beginning and construction, as **shall provide separate classification of the numerous groups embraced under the terms "idiotic" "imbecile," or "feeble-minded."** It is specifically determined that the **processes of an agricultural training shall be primarily considered in the educational department**; and that the employment of the inmates in the care and raising of stock, and the cultivation of fruits, vegetables, roots, et cetera, shall be made tributary to the maintenance of institution.

. . .

PA. STAT. ANN. tit 11, § 302 (West 1990): § 302. Children not to be kept in poorhouses.

It shall be unlawful for the overseers or guardians or directors of the poor, in the several counties, cities, boroughs, and townships of this Commonwealth, to receive into, or retain in, any almshouse or poorhouse, any child between two and sixteen years of age, for a longer period than sixty days, **unless such child shall be an unteachable idiot, an epileptic, or a paralytic, or otherwise so disabled or deformed as to render it incapable of labor or service.**

Marriage

PA. STAT. ANN. tit. 48, § 1-5 (WEST 1965): Restrictions on the issue of marriage license.

No license to marry shall be issued by any clerk of the orphans' court.

. . .

(e) If either of the applicants is or has been, within five years preceding the time of the application, an **inmate** of an institution for **weak-minded**, **insane**, or persons of **unsound mind**, unless a judge of the orphans' court shall decide that it is for the best interest of such applicant and the general public to issue the license, and shall authorize the clerk of the orphans' court to issue the license.

PA. STAT. ANN. tit. 48, § 1-5 (WEST 1990): Restrictions on the issue of marriage license.

No license to marry shall be issued by any clerk of the orphans' court.

. . .

(d) If either of the applicants for a license is **weak-minded**, **insane**, of **unsound mind**, or is **under guardianship as a person of unsound mind** unless a judge of the orphans' court shall decide that it is for the best interest of such applicant and the general public to issue the license, and shall authorize the clerk of the orphans' court to issue the license.

Segregated Education

PA. STAT. ANN. § 13-328 (West 1990): Compulsory education of **physical defectives**.

Every parent, guardian, or other person, having control or charge of any child of compulsory school age who is **deaf** or **blind**, or is so **crippled**, or whose hearing or vision is so **defective** as to make it **impracticable to have such child educated in the public schools** of the district in which he is a resident, shall allow such child to be sent to some school where proper provision is made for the education of the deaf, or of the blind, or of crippled children, or shall

provide for the tuition of such child by a legally certified private tutor.

RHODE ISLAND

Employment

R.I. GEN. LAWS § 5-25-14 (1998): Grounds for refusal to issue, refusal to renew, revoke, or suspend a license. [veterinary license].

. . .

(13) Lack of fitness to practice by reason of **mental** or **physical impairment** or otherwise.

. . .

R.I. GEN. LAWS § 30-3-24 (1998): Discharge of officers.

A commissioned officer or warrant officer of the national guard **may be discharged** and his or her commission or warrant terminated, by reason of death, by acceptance by proper authority of resignation, on account of inefficiency, **on account of physical disability**, absence without leave for three (3) months, dismissal pursuant to sentence of a general court-martial or special court-martial, removal from the state, and upon disbandment of an organization, withdrawal of federal recognition, and for such other reasons as may be prescribed by the governor.

Institutionalization

1907 R.I. Pub. Laws 89: An Act for the Establishment, Maintenance, Management and Control of the Rhode Island School for the Feeble-Minded.

It is enacted by the General Assembly as follows:

Section 1. A school to be known as the **Rhode Island School for the Feeble-Minded** shall be established and shall be under the management and control of the state board of education.

. . .

Managing Own Affairs

R.I. GEN. LAWS § 40-9-15 (1990): Reports of blindness of persons.

(a) Whenever, upon examination at a clinic, hospital, or other institution, or elsewhere, by a physician, optometrist or other person, the visual acuity of any person is found to be 20/200 or less in the better eye with the best correction, or the visual acuity is better than 20/200 if the widest diameter of the field of vision subtends an angle no greater than twenty (20) degrees, the superintendent or other person in charge of the clinic, hospital, or other institution, or the physician, optometrist or other person who conducted or was in charge of the examination if it took place elsewhere than in the clinic, hospital, or other institution, shall within thirty (30) days report to the director of the department of human services the result of the examination, and that the blindness of the person examined has been established.

Marriage

R.I. Gen. Laws § 15-1-5 (1988): Bigamous marriages void – marriage of lunatics and idiots.

Any marriage when either of the parties thereto, at the time of the marriage, has a former wife or husband living who has not been, by final decree, divorced from such party, and any marriage where either of the parties thereto is an

idiot or a **lunatic** at the time of the marriage, shall be **absolutely void**, and no life estate created by chapter 25 of title 33 shall be assigned to any widow in consequence of the marriage, and the **issue of the marriage shall be deemed illegitimate** and subject to all the disabilities of illegitimate issue.

Parenting

R.I. GEN. LAWS § 15-7-7 (1998): Termination of parental rights.

(a) The court shall, upon a petition duly filed by a governmental child placement agency or licensed child placement agency after notice to the parent and hearing thereon, terminate any and all legal rights of the parent to the child, including the right to notice of any subsequent adoption proceedings involving the child, if the court finds as a fact by clear and convincing evidence that:

. . .

(i) **Emotional illness, mental illness, mental deficiency**, or **institutionalization of the parent**, including imprisonment, of such a duration as to render it improbable for the parent to care for the child for an extended period of time.

Segregated Education

R.I. GEN. LAWS § 16-24-13 (1988): Classes for retarded and handicapped children in state residential facilities and institutions.

Classes for **retarded** children and children with other handicaps as described in the regulations of the state board of

regents for elementary and secondary education shall be provided for those children in **all the state institutions or state schools for the mentally retarded, and also in state operated and state supported facilities where retarded or handicapped children reside subject to all regulations of the state board of regents for elementary and secondary education.**

Travel

R.I. GEN. LAWS § 40.1-22-19 (1998): Aliens and non-residents.

. . .

(a) The director shall be responsible for the investigation and examination of all alien and nonresident persons who are **developmentally disabled** in any facility under the jurisdiction of the department of health, department of human services or elsewhere if admitted pursuant to the provisions of this chapter, and to **attend the deportation or removal of such persons to their respective countries or places of residence**.

(b) The director may make reciprocal agreements with other states or political subdivisions thereof to provide for prompt humane return under proper supervision of developmentally disabled residents of other states or political subdivisions thereof.

(c) In the case of nonresidents the director shall cause them to be removed to the state of their residence, except that he or she may defer the action where the removal would cause the developmentally disabled person undue hardship unless the interests of the state and other clients would be materially harmed by the deferment.

Voting

R.I. CONST. art. II, § 4 (1842):

. . .

and no pauper, **lunatic, person *non compos mentis*, person under guardianship**, or member of the Narragansett tribe of Indians, **shall be permitted to be registered or to vote**.

R.I. CONST. art. II, § 1 (1987): Persons entitled to vote.

. . .

Except that no person who has been lawfully adjudicated to be **non compos mentis** shall be permitted to vote.

SOUTH CAROLINA

Institutionalization

1918 S.C. Acts 729, No. 398: AN ACT to Establish the State Training School for the Feeble-minded, and to Provide for Its Government and Maintenance.

Be it enacted by the General Assembly of the State of South Carolina, That there shall be, and is hereby, established under the provisions of this Act, an institution to be known as the "**State Training School for the Feeble-minded.**"

. . .

Section 10. Definition of Term "Feeble-minded." For the purpose of this Act, the term "feeble-minded persons" shall be construed to mean any **moron, imbecile or idiotic person, of whatever grade**, who is **afflicted with mental defectiveness** from birth or from an early age, so pronounced that he is **incapable of competing on equal terms with his normal fellows or of managing himself or his affairs with ordinary prudence, and who, therefore, requires custodial care and training for his own protection and for the welfare of others and of the Community**, but who is not insane or of unsound mind in such a degree as to require his commitment to the State Hospital for the Insane.

. . .

Section 13. Petition for Commitment. When any person who is a resident of this State shall be adjudged to be feeble-minded, and by reason of such mental condition of feeble-mindedness and of social conditions, such as want of proper supervisions, control, care and support, or other causes, it is **unsafe and dangerous to the welfare of the**

community for him to be at large without supervisions, control and care, any relative, guardian or **any reputable citizen** of this State may file with the Judge of the Probate Court, or with the Clerk of the Circuit Court, a petition in writing, setting forth that the person therein named is feeble-minded, the facts and circumstances of the social conditions, such as want of proper supervision, control, care and support, or other causes, making it **unsafe or dangerous to the welfare of the community for such person to be at large** without supervision, control or care; also the name and residence, or that such name and residence is unknown to the petitioner, of some person, if any there be, actually supervising, caring for or supporting such person, and of at least one person, if any there be, legally chargeable with such supervision, care or support, and also the names and residences, if the same be known, of the parents or guardians.

. . .

S.C. CODE ANN. § 20-7-2327 (Law. Co-op. 1976): Authority of Children's Bureau to place children in private homes or institutions.

The Children's Bureau may place in private homes for adoption any destitute, delinquent, neglected, and dependent child committed to the care of the Children's Bureau. **Defective and otherwise handicapped children committed to the care of the Children's Bureau must be placed in institutions provided by the State for the care of these children, as may appear advisable for the best interests of the child.**

Managing Own Affairs

S.C. CODE ANN. § 43-25-50 (Law. Co-op. 1976): Eye examinations and medical and surgical treatment for visually handicapped persons; reports of results.

The Commission may arrange for the examination of the eyes of visually handicapped persons and may secure and pay for medical and surgical treatment for such persons whenever in the judgment of an ophthalmologist the eyes of such person may be benefited thereby. Whenever, upon examination by an ophthalmologist any person is found to have no vision or vision with glasses which is also defective as to prevent the performance of ordinary activities for which eyesight is essential, such examining ophthalmologist shall, within thirty days, report the results of the examination to the Commission.

Public Services

S.C. CODE ANN. § 43-33-530 (Law. Co-op. 1976): Discrimination prohibited without reasonable justification.

No person may discriminate against a handicapped person with respect to employment, public accommodations, public services, or housing **without reasonable justification.** No protections or right of access provided by law for handicapped persons are reduced or eliminated by the provisions of this section.

Sterilization

S.C. CODE ANN. § 5009 (1942): Sterilize certain inmates of penal or charitable institutions.

(1) ...Whenever the superintendent, or any other person or persons in charge of any penal or charitable institution of this State shall be of the opinion that it is for the best interest of the inmates of the institution of which he is superintendent, or person in charge, that **any inmate of such institution who is afflicted with any hereditary form of insanity that is recurrent, idiocy, imbecility, feeble-**

minded or epilepsy should be sexually sterilized, such superintendent, or other person in charge, shall present to the executive committee of the state board of health, of this State, a written petition stating the facts of the case, and the grounds of his opinion verified by his affidavit to the best of his knowledge and belief, and praying that an order may be entered by the said committee authorizing him to perform or have performed by some competent physician, or surgeon to be designated by him in his petition, or by the committee in its order, upon such inmate named in such petition, at one of the institutions of the State, the operation of **vasectomy**, if upon a male, and of **salpingectomy**, if upon a female, or such other safe and proper operation as medical science may provide to accomplish such purpose.

. . .

Voting

S.C. CONST. art. II, § 7 (1976): Disqualifications by reason of mental incompetence or conviction of crime.

The General Assembly shall establish disqualifications for voting by reason of **mental incompetence** or conviction of serious crime and may provide for the removal of such disqualifications.

S.C. CODE ANN. § 7-7-990 (Law. Co-op 1990): Barrier-free polling places for physically handicapped electors; criteria and procedures for use.

A. Notwithstanding any other provision of law, the county election commission in each county of the State is encouraged to make every polling place barrier free and shall provide at least **one polling place**, free of architectural barriers, which shall be known as the Countywide Barrier-Free Voting Precinct, **for use by physically handicapped**

electors of the county. Such polling place may be within any existing polling place that now is barrier-free or that is made barrier-free. Any physically handicapped elector, regardless of his place of residence in the county, may vote in this polling place if he meets the following criteria:

. . .

(2) Elector has applied in writing to and obtained from the county board of registration **thirty days prior to the election** a voting registration transfer authorizing the elector to vote at the county barrier-free polling place.

SOUTH DAKOTA

Institutionalization

1921 S.D. Laws 344, ch. 235:

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. **The state commission for the control of the feeble minded is hereby created.** It shall consist of the Superintendent of the State School and Home for Feeble Minded, and one physician, one psychologist, one sociologist and one lawyer to be appointed by the governor. . . .

Section 2. It is the purpose of this act to provide that all **feeble minded persons** resident within this state shall become the wards of the state and shall be kept **segregated** to the end that **they shall not reproduce their kind**.

. . .

Section 4. The county board of insanity in each county shall constitute the county commission under this act and all laws now in force relating to the apprehension, examination, commitment, transportation and custody of the **insane** are hereby extended to the apprehension, examination, commitment to the State School and Home for Feeble Minded, transportation of such **feeble minded persons** and their care and control, provided, that no person shall be committed to the State School and Home for Feeble Minded against his wishes or the wishes of his or her parents or guardian, if there be any such within the State, unless said **County Commission shall find that such person is capable of procreation and likely to procreate unless so committed, or shall find that such person is a menace and**

detriment to the community. Nothing herein, however, shall prevent parents and guardians from voluntarily placing their **feeble minded children** or wards in the said State School and Home for Feeble Minded.

Managing Own Affairs

S.D. CODIFIED LAWS § 58-33-12.1 (Michie 1990): Blindness as basis for life insurance termination, modification or refusal – Unfair practice.

It is an unfair or discriminatory practice for an insurance company to terminate, or to modify coverage or to refuse to issue or refuse to renew any life policy or contract of life insurance solely because the applicant or insured or any employee of either is **blind** or partially **blind. This section does not apply to accident and health insurance. This section may not be interpreted to prohibit the termination, modification, issuance or renewal of any insurance policy or contract if the action is based on sound actuarial principles or is related to actual or reasonable anticipated experience.**

S.D. CODIFIED LAWS § 28-10-9 (Michie 1990): Register of the visually impaired maintained by director – Information included:

In carrying out his duties under this chapter, the director of service to the **blind** and visually impaired shall cause to be compiled and maintained a **complete register of the blind and visually impaired in the state**, which shall describe their capacity for education and training and their employment possibilities together with such other further information as the director shall deem of value.

S.D. CODIFIED LAWS § 20-11A-3 (Michie 2000): Disability after adjudication of incapacity -- Testamentary power on actual restoration to capacity.

After his incapacity has been judicially determined, a person of **unsound mind** can make no conveyance or other **contract,** nor delegate any power, nor waive any right, until his restoration to capacity is judicially determined. If actually restored to capacity, he may take a will, though his restoration is not thus determined.

Sterilization

1917 S.D. Sess. Laws 378, ch. 236, § 2:

[Making it "**the duty**" of State Board of Charities and Corrections to order **sterilization** of institutional inmates who "**would produce children with a tendency to disease, feeble-mindedness, idiocy or imbecility**."]

1931 S.D. Sess. Laws 200, ch. 153:

[Authorizing sterilization of the "**feeble-minded**," defined as "all individuals, except the insane, who by reason of mental deficiency are incapable of doing the work of the grades in the public schools in a reasonable ratio to their years of life; or who by reason of mental deficiency and other associated defects are incapable of making the proper adjustments to life for one of their chronological age."]

1935 S.D. Sess. Laws 163, ch. 113:

[Giving sub-commissions within each county "the power to make an order for the sterilization of any feeble-minded person found within its respective county. . . . " A petition could be filed with the chairman of the Sub-Commission of the County in which the alleged feeble-

minded person was found by "**any resident** of the County in which such person may be found."]

Voting

S.D. CONST. art. VII, § 2 (1974): Voter Qualification.

Every United States citizen eighteen years of age or older who has met all residency and registration requirements shall be entitled to vote in all elections and upon all questions submitted to the voters of the state unless **disqualified by law for mental incompetence** or the conviction of a felony. The Legislature may by law establish reasonable requirements to insure the integrity of the vote.

S.D. CONST. art. VII, § 2 (1978): Voter Qualification.

Every United States citizen eighteen years of age or older who has met all residency and registration requirements shall be entitled to vote in all elections and upon all questions submitted to the voters of the state unless disqualified by law for **mental incompetence** or the conviction of a felony.

TENNESSEE

Managing Own Affairs

TENN. CODE ANN. § 43-13-104 (1996): [Petition for appointment -- Sworn -- Contents].

The petition for the appointment of a conservator, which shall be sworn, should contain the following:

. . .

(8) The rights of the respondents to be removed from the respondent and transferred to the conservator. The rights the court may remove include, but are not limited to, the right to vote, dispose of property, execute instruments, make purchases, enter into contractual relationships, hold a valid Tennessee driver license, give or refuse consent to medical and mental examinations and treatment or hospitalization, or do any other act of legal significance the court deems necessary or advisable.

. . .

Marriage

TENN. CODE ANN. § 36-3-109 (1990): Issuance of license to drunks, insane persons or imbeciles forbidden.

No license shall be issued when it appears that the applicants or either of them is at the time drunk, **insane** or an **imbecile**.

Segregated Education

TENN. CODE ANN. § 49-6-3015 (1990): Blind Children.

. . .

(b) Compulsory school attendance is required of all blind children between the ages of seven (7) and sixteen (16) years, except;

(1) Blind children who are **mentally or physically defective** and **incapable of benefiting from school attendance**; and

. . .

(d) It is the duty of the local superintendent of schools to certify to the department of education blind students in their schools who are not in regular attendance or who are not capable of making satisfactory progress under the methods used for the sighted.

. . .

(2) Upon such certification, the judge may try such case and order the attendance of the child at the Tennessee School for the Blind during the regular term, summer vacation excepted, until the child has completed the course of study in the school or reached the age of sixteen (16) years.

. . .

(f) Blind children shall be subject to the truancy laws in the same manner as sighted children, and attendance officers shall enforce their attendance at school in the same manner as is provided for other children; provided, that the authorities of the Tennessee School for the Blind shall have power to reject any child sent to that institution who is

mentally or physically defective to the extent that he is unable to carry on the prescribed work of the school or to benefit from same, and to expel or send to his home any child who becomes unmanageable and incorrigible when he becomes a detriment to the welfare and progress of other students. Such action by the school authorities shall be reported within twenty (20) days to the juvenile judge of such child's home county.

TENN. CODE ANN. § 49-10-204 (1990): Special education centers.

(a)(1) A special education services association may establish and operate one or more special education centers to provide diagnostic, therapeutic, corrective and other services, on a more comprehensive, expert, economic and efficient basis than can reasonably be provided by a single school district.

(2) Such services may be provided in the regular schools by personnel and equipment of a center or, whenever it is **impractical or inefficient to provide them on the premises of a regular school, the center may provide services in its own facilities.**

TEXAS

Institutionalization

1915 Tex. Gen. Laws ch. 90 §§ 1, 2:

Be it enacted by the Legislature of the State of Texas

Section 1. There is hereby established at some suitable place in the vicinity of Austin, where suitable farm lands may be secured, a farm colony on the cottage plan for the training and custodial care of the **feeble minded** of the State, to be known as the State Colony for the Feeble Minded.

Section 2. It shall be the purpose of this colony to educate by such special methods as the best modern science has discovered the feeble minded children of the State that are capable of being educated, and to provide suitable work and supervision for the adult feeble minded who are not able to protect and support themselves at large as law abiding citizens, **to the end that these unfortunates may be prevented from reproducing their kind and society relieved of the heavy economic and moral losses arising from the existence at large of these unfortunate persons.**

Managing Own Affairs

TEX. INS. CODE ANN. § 21.21-3 (West 1990): Discrimination Against Handicapped Prohibited.

An insurer who delivers or issues for delivery or renews any insurance in this state may not refuse to insure, refuse to continue to insure, limit the amount, extent, or kind of coverage available to an individual, or charge an individual a different rate for the same coverage solely

because of handicap or partial handicap, **except where the refusal, limitation, or rate differential is based on sound actuarial principles or is related to actual or reasonably anticipated experience.**

Segregated Education

TEX. EDUC. CODE ANN. § 26.11 (West 1990): Purpose.

Rehabilitation districts may be created to provide education, training, special services, and guidance to handicapped persons or handicapped scholastics peculiar to their condition and needs, to develop their full capacity for usefulness to themselves and society, and to prevent them from becoming or remaining, in whole or in part, dependent on public or private welfare or charity.

TEX. CODE ANN. § 3260 (West 1990): Hospital established.

There is hereby established a **State Hospital for Crippled and Deformed Children.** The gift to the State of Texas by the Texas Public Health Association of the Walter Colquitt Memorial Children's Hospital, also known as the children's ward of the John Sealy Hospital on the premises of the University of Texas at Galveston, Texas, as hereby accepted by the State, and this hospital shall be the State Hospital for Crippled and Deformed Children. The term **"crippled and deformed children"** as used herein shall include children suffering from disease from which they may become crippled or deformed.

Voting

TEX. CONST. art. VI, § 1 (1990): Classes of persons not allowed to vote.

The following classes of persons shall not be allowed to vote in this State, to wit:

. . .

Second: **Idiots** and **lunatics**.

TEX. CONST. art. VI, § 1 (1999). Classes of persons not allowed to vote.

. . .

Second: All persons who have been determined **mentally incompetent** by a court, subject to such exceptions as the Legislature may make.

UTAH

Employment

UTAH CODE ANN. § 34-40-104 (1990): Exemptions.

. . .

(2) Handicapped individual whose earnings or productive capacities are impaired by age, **physical or mental deficiencies**, or injury may be **employed at wages which are lower than the minimum wage**, provided the wage is related to the employee's productivity. The commission may establish and regulate the wages paid or wage scales for such individuals.

Housing Discrimination

UTAH CODE ANN. § 10-9-2.6 (1990): Residential facilities for elderly persons.

(2) (a) Each municipality shall adopt ordinances which establish that a residential facility for elderly persons is a permitted use in any area where residential dwellings are allowed, except an area zoned to permit exclusively single-family dwellings. The ordinances shall establish a permit process which may require only that:

. . .

(iv) No residential facility for elderly persons be established within tree-quarters mile of another residential facility for elderly persons or residential facility for **handicapped persons**, as defined by Section 10-9-2.5;

. . .

(b) A municipality may, by ordinance, provide that no residential facility for elderly persons be established within **three-quarters mile** of another existing residential facility for elderly persons or residential facility for **handicapped** persons, as defined by Section 10-9-2.5.

Institutionalization

1920 Utah Laws 102, ch. 75 § 1:

Be it enacted by the Legislature of the State of Utah:

That a school for **feeble-minded persons**, to be known as "Utah State Training School" is hereby authorized to be located and established in the manner hereinafter provided.

1929 Utah Laws 105, ch. 75 § 9: Department for instruction-custodial department for persons over school age-instruction and training.

The said board of trustees are hereby empowered and shall maintain a school department for the instruction and training of **feeble-minded persons** who are within the school age or who are capable of being benefited by school instruction, and a custodial department for the care and custody of **feeble-minded persons beyond the school age or not capable of being benefited by school instruction,** and shall cause to be given to patients thereof instruction and training in unskilled labor and trades and such arts, crafts, manual training, kindergarten and other branches and lines of occupation as may be appropriate for the patients to undertake.

Sterilization

1929 Utah Laws 102, ch. 75:

[Authorizing sterilization of "persons . . . whose defects prevent them from properly taking care of themselves or who are a **social menace**."]

Travel

UTAH CODE ANN. § 17-5-59 (1990): Transient indigents and insane.

. . .

They may adopt such rules and regulations, by resolution, as may be necessary to regulate or prohibit the leaving by any person or common carrier within the limits of the county of any indigent, **idiotic** or **insane** persons not having a lawful settlement in such county, or the leaving of the bodies of any such persons who may have died while traveling, unless such person or common carrier shall undertake to be responsible for the proper burial of such bodies or unless such deceased person at the time of his death had a lawful settlement in the county within which it is proposed to deliver his body.

Voting

UTAH CONST. art. IV, § 6 (1895): Elections and Right of Suffrage.

No **idiot**, **insane person**, or person convicted of treason or crime against the elective franchise, unless restored to civil rights, shall be permitted to vote at any election or be eligible to hold office in this State.

UTAH CONST. art. IV, § 3 (1991): Mentally incompetent persons and certain criminals ineligible to vote.

No **mentally incompetent** person or person convicted of treason, or crime against the elective franchise, unless restored to civil rights, shall be permitted to vote at any election, or be eligible to hold office in this State.

VERMONT

Access to Public Buildings

VT. STAT. ANN. tit. 21, § 273 (1990): Construction standards; variance.

. . .

(b) The architectural barrier compliance board shall exempt a public building, unit or historic building, or portions thereof, from any of the standards established by this section if the board determines that:

(1) the public building, unit or historic building **would not normally be used by handicapped persons;**

(2) compliance with specific standards would be prohibitively costly in relation to the normal costs of the total project;

(3) compliance with specific standards would cause an undue adverse effect to the distinctive design characteristics of an historic building;

(4) protracted or permanent abandonment of a nonpublic building or public building would result from the failure of the board to grant an exemption under this section;

(5) cost overruns for the alteration of a public building or change in use of a nonpublic building to become a public building resulted in a cost in excess of the 40 percent of the fair market value of the building or unit and that the overrun was not reasonably foreseeable at the time the parties entered into the contract for the project; or

(6) exemptions in subdivisions (1) and (2) of this subsection shall not apply to newly constructed covered multifamily dwellings built for first occupancy after January 1, 1990, unless it is impractical to design and construct at least one building entrance on an accessible route, as defined by the appropriate requirements of ANSI 117.1, because of the terrain or unusual characteristics of the site. The burden of proving such impracticality is on the person or persons who designed or constructed the covered multifamily dwelling.

Housing Discrimination

VT. STAT. ANN. tit. 24, § 4409 (2000): Limitations.

. . .

(d) A state licensed or registered residential care home or group home, serving **not more than six persons** who are **developmentally disabled** or **physically handicapped**, shall be considered by right to constitute a permitted single-family residential use of property, except that no such home shall be so considered if it locates within **1,000 feet** of another such home.

. . .

Employment

VT. STAT. ANN. tit. 21, § 385: Administration.

. . .

(4) To appoint with the approval of the governor a wage board with authority:

. . .

(B) to recommend a suitable scale of rates for learners, apprentices and **handicapped persons**, which **may be less than the regular minimum wage rate for experienced and non-handicapped workers.**

Institutionalization

1913 Vt. Acts & Resolves 96, No. 81 § 1: AN ACT To Provide For The Care Training And Education Of Feeble-Minded Children.

A state school which shall be called the **Vermont State School for Feeble-minded Children** is hereby created and established for the care, training and education of **idiotic** and **feeble-minded** children, otherwise called **mentally defective children**, between five and twenty-one years of age. All such children in the Vermont industrial school who, in the judgment of the selectmen or the board of penal institutions, are capable of being benefited by the instruction given in said school for feeble-minded children, shall be committed thereto.

Marriage

VT. STAT. ANN. tit. 15, § 514 (1990): Party an idiot or lunatic.

(a) When a marriage is sought to be annulled on the ground of the **idiocy** of one of the parties, it may be declared void on the complaint of a relative of such **idiot** at any time during the life of either of the parties.

(b) When a marriage is sought to be annulled on the ground of the **lunacy** of one of the parties, on the complaint of a relative of the **lunatic**, such marriage may be declared void during the continuance of such lunacy, or after the death

of the lunatic in that condition and during the lifetime of the other party to the marriage.

(c) The marriage of a **lunatic** may be declared void upon the complaint of a **lunatic** after restoration to reason, but a decree of nullity shall not be pronounced if the parties freely cohabited as husband and wife after the **lunatic** was restored to sound mind.

(d) If an action is not prosecuted by a relative, the marriage of an **idiot** or a **lunatic** may be annulled during the lifetime of both the parties to the marriage, on the complaint of a person admitted by the court to prosecute as the next friend of such **idiot** or **lunatic**.

(e) The word "lunatic" as used in sections 511-514 of this title shall extend to **persons of unsound mind other than idiots**.

VT. STAT. ANN. tit. 15, § 512 (1990): Voidable marriages – Grounds for annulment generally.

The marriage contract may be annulled when, at the time of marriage, either party had not attained the age of sixteen years or was an **idiot** or **lunatic** or **physically incapable** of entering into the marriage state or when the consent of either party was obtained by force or fraud.

Sterilization

VT. STAT. ch. 427 § 10,027 (1947): Construction.

It shall be the policy of the state to **prevent procreation of mentally defective and insane persons**, when the public welfare and the welfare of such persons likely to procreate, can be improved by **voluntary sterilization** as provided in this chapter.

. . .

When two physicians and surgeons legally qualified to practice in the state examine a person resident of the state, and decide:

I. That such person is **mentally defective or insane and likely to procreate mentally defective or insane persons if not sexually sterilized;**

II. That the health and physical condition of such person will not be injured by the operation of vasectomy, if a male, or the operation of salpingectomy, if a female;

III. That the **welfare of such person and the public welfare will be improved if such person is sterilized as aforesaid**.

. . .

Voting

VT. STAT. ANN. tit. 17, § 2667 (1990): Access to annual meeting.

The legislative body of the municipality shall take reasonable measures to assure that elderly or handicapped voters may conveniently attend annual or special meetings; provided, **however, that such measures need not be taken if doing so would impose undue hardship on the town.** Measures may include, but are not limited to, location of meetings on the ground floor of buildings or providing ramps or other devices for access to meetings.

VIRGINIA

Institutionalization

1916 Va. Acts ch. 388: AN ACT to define feeble-mindedness and to provide for the examination, legal commitment, and the custody and care of feeble-minded persons, and their **segregation** in institutions.

1. Be it enacted by the general assembly of Virginia, That the words **"feeble-minded person"** in this act shall be construed to mean any person with **mental defectiveness** from birth or from an early age, but **not a congenital idiot,** so pronounced that he is incapable of caring for himself or managing his affairs, or of being taught to do so, and is unsafe and dangerous to himself and to others and to the community, and who, consequently, requires care, supervision and control for the protection and welfare of himself, of others and of the community, but who is not classible as an "insane person," as usually interpreted.

2. No **feeble-minded person** shall be sent to any institution, except as hereinafter provided. When any person residing in this State shall be supposed to be feeble-minded, **any reputable citizen** of the State may file a petition in the circuit court of the county, or corporation court of the city, or with the judge thereof in vacation, or before any justice in the city or county in which such alleged feeble-minded person is found, setting forth under oath the circumstances indicating the feeble-mindedness of the person named, the facts of his condition and surroundings, his financial condition, and the names and financial condition of the persons, if any, having the custody or control, and the parents, guardians and brothers and sisters, if any, of the alleged feeble-minded person.

3. Thereupon, it shall be the duty of the judge or the justice with whom said petition is filed, to issue a warrant ordering such alleged feeble-minded person to be brought before him and summon the persons named in the petition and such other persons as may be deemed competent to testify to the condition and circumstances of the alleged feeble-minded person, including two physicians, and enter or issue an order fixing a time and place for the examination of such feeble-minded person. The judge or the justice and the two physicians, one of whom shall, when practicable, be the family physician, and neither shall in any manner be related to him or have an interest in his estate, shall constitute a commission to determine whether or not such person is feeble-minded as alleged; and if it be found by such commission that such person is feeble-minded, and is not under such proper supervision, care or control as to insure the welfare of himself, of others, or of the community, the commission shall file with the circuit or corporation court of the county or city in which such commission is held, a report in writing, setting forth the results of their examination, together with their conclusions and recommendations.

4. If the commission be satisfied that such person is not feeble-minded, he shall be discharged and the petition dismissed. If the commission be satisfied that such person is feeble-minded, said commission may petition the circuit or corporation court of the county or city in which said commission is held, or the judge thereof in vacation, and said court or judge may appoint some suitable person to be the guardian or committee of the person of such feeble-minded person, and said court or judge may also appoint the same or a different person guardian or committee of the property of the feeble-minded person, and such guardian or guardians shall have the rights and duties which pertain to guardians of the person and property of infants under the laws of this State, and shall give such bond as may be required by said judge; provided, that the said court or judge may **commit**

such feeble-minded person to a private institution approved by the State board of charities and corrections, or to a **State institution** or **colony for the feeble-minded**. And said court or judge may commit said feeble-minded person to the custody of the superintendent of the poor of the county or city in which said commission is held, pending admission into the institution or colony.

. . .

Managing Own Affairs

VA. CODE ANN. § 54.1-2968 (Michie 1990): Information about certain handicapped persons.

This chapter shall not be construed to prohibit any duly licensed physician from **communicating the identity of any person under age twenty-two who has a physical or mental handicapping condition to appropriate agencies of the Commonwealth** or any of its political subdivisions and other information regarding such person or condition which may be helpful to the agency in the planning or conduct of services for handicapped persons.

Sterilization

VA. CODE ANN. § 54.1-2975 (1998): Sterilization operations for certain children incapable of informed consent.

It shall be lawful for any physician licensed by the Board of Medicine to perform a vasectomy, salpingectomy, or other surgical **sexual sterilization** procedure on a person fourteen years of age or older and less than eighteen years of age when

. . .

4. The court has determined by clear and convincing evidence that the child's **mental abilities are so impaired** that the child is incapable of making his or her own decision about sterilization and is unlikely to develop mentally to a sufficient degree to make an informed judgment about sterilization in the foreseeable future.

. . .

VA. CODE ANN. § 54.1-2976 (1998): Sterilization operations for certain adults incapable of informed consent.

It shall be lawful for any physician licensed by the Board of Medicine to perform a **vasectomy, salpingectomy**, or other surgical **sexual sterilization** procedure on a person eighteen years of age or older, who does not have the capacity to give informed consent to such an operation, when:

1. A petition has been filed in the circuit court of the country or city wherein the person resides by the person's parent or parents, guardian, spouse, or next friend requesting that the operation be performed;

2. The court has made the person a party defendant, served the person, the person's guardian, if any, the person's spouse, if any, and if there is no spouse, the person's parent with notice of the proceedings and appointed for the person an attorney-at-law to represent and protect the person's interests;

3. The court has determined that a full, reasonable, and comprehensible medical explanation as to the meaning, consequences, and risks of the sterilization operation to be performed and as to alternative methods of contraception has been given by the physician to the person upon whom the operation is to be performed, to the person's guardian, if any,

to the person's spouse, if any, and, if there is no spouse, to the parent;

4. The court has determined (i) that the person has been legally adjudged to be incapacitated in accordance with Article 1.1 (§ 37.1-134.6 et seq.) of Chapter 4 of Title 37.1 and (ii) that the person is **unlikely to develop mentally** to a sufficient degree to make an informed judgment about sterilization in the foreseeable future;

5. The court, to the greatest extent possible, has elicited and taken into account the views of the person concerning the sterilization, giving the views of the person such weight in its decision as the court deems appropriate;

6. The court has complied with the requirements of § 54.1-2977; and

7. The court has entered an order authorizing a qualified physician to perform the operation not earlier than thirty days after the date of the entry of the order, and thirty days have elapsed, the court order shall state the date on and after which the sterilization operation may be performed.

VA. CODE ANN. § 54.1-2977 (1998): Standards for court-authorized sterilization of certain persons.

In order for the circuit court to authorize the sterilization of a person in accordance with § 54.1-2975 or § 54.1-2976, it must be proven by clear and convincing evidence that:

1. There is a need for contraception. The court shall find that the person is engaging in sexual activity at the present time or is likely to engage in sexual activity in the near future and that pregnancy would not usually be intended by such person if such person were competent and engaging in sexual activity under similar circumstances;

2. There is no reasonable alternative method of contraception to sterilization;

3. The proposed method of sterilization conforms with standard medical practice, and the treatment can be carried out without unreasonable risk to the life and health of the person; and

4. The nature and extent of the person's **mental disability** renders the person permanently incapable of caring for and raising a child. The court shall base this finding on empirical evidence and not solely on standardized tests.

B. The criteria set out in subsection A of this section shall be established for the court by independent evidence based on a medical, social, and psychological evaluation of the person upon whom the sterilization operation is to be performed.

Voting

VA. CONST. art. III, § 1 (1864):

No person shall have the right to vote who is of **unsound mind** or a pauper, or who has been convicted of bribery in an election, or of any infamous offence.

VA. CONST. art. I, § 23 (1928):

The following persons shall be excluded from registering and voting: **idiots, insane persons**.

VA. CONST. art. II, § 1 (1999):

As prescribed by law, no person adjudicated to be **mentally incompetent** shall be qualified to vote until his competency has been reestablished.

WASHINGTON

Institutionalization

1905 Wash. Laws 133, ch. 70:

Section 1. That a State institution hereby is established to be known as "The State Institution for Feeble-minded," for the care and education of **the defective and feeble-minded youth** of the State of Washington.

. . .

Section 4. Every child and youth residing within this State, under the age of twenty-one years who by reason of **defective intellect** are rendered **unable to acquire an education in the common schools,** and **epileptics** of the same age, are entitled to receive such physical and mental training and care as is provided in said institution, at the expense of the State. The term "feeble-minded," as used in connection with this institution, shall be so construed as to include **idiotic children,** and the said board shall provide a custodian or asylum department for the care of such as can not be benefited by educational training. The said board is hereby authorized and required to utilize the labor of the inmates of the said institution as far as may be conducive to their health and best interests, under the direction of the superintendent of the said institution, subject to the approval of the said board.

. . .

Section 6. That upon the completion and equipment of said building or buildings herein provided for, or a sufficient portion thereof for their accommodation, that said State Board of Control shall remove or cause to be removed

to said "State Institution for Feeble-minded" all of the inmates then in the feeble-minded department of the State School for Defective Youth.

. . .

Section 9. **It shall be the duty of the parents or guardians of such defective youth to send them to the said institution for feeble-minded**. The county superintendent shall take all action necessary to endorse this section. *Provided,* That if satisfactory evidence shall be laid before the county superintendent that any defective youth is being properly educated and cared for at home or in some suitable institution other than the state institution for feeble-minded, the county superintendent shall take no action in such case further than to make a record of such fact, and take such steps as shall be necessary to satisfy himself that said defective youth shall continue to receive proper education and care. Any parent, guardian, school superintendent or county commission who shall, without proper cause, fail to carry into effect the provisions of this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof, upon the complaint of any officer or citizen of the county or state, before any justice of the peace or superior court, shall be fined in any sum not less than fifty nor more than two hundred dollars, in the discretion of the court.

Segregated Education

WASH. REV. CODE ANN. § 28A.13.060 (West 1990): Appeal from superintendent's denial of educational program.

Where a handicapped child as defined in RCW 28A.13.010 has been **denied the opportunity of an education program** by a local school district superintendent under the provisions of RCW 28A.27.010, or for any other reason there shall be an affirmative showing by the school

district superintendent in writing directed to the parents or guardian of such a child within ten days of such decision that:

(1) No agency or other school district with whom the district may contract under RCW 28A.13.030 can accommodate such child, and

(2) Such child will not benefit from an alternative educational opportunity as permitted under RCW 28A.13.040."

Sterilization

1921 Wash. Sess. Laws 162, Ch. 53:

[Authorizing the compulsory sterilization of the feeble-minded, insane, epileptic, habitual criminals, moral degenerates and sexual perverts.]

Voting

WASH. CONST. art. VI, § 3 (1988): Who Disqualified.

All **idiots**, **insane persons**, and persons convicted of infamous crime unless restored to their civil rights are excluded from the elective franchise.

WASH. REV. CODE ANN. § 29.57.010 (West 1990): Intent—Recommendation to county auditors.

The intent of this chapter is to implement Public Law 98-435 which requires state and local election officials, **whenever possible**, to designate and use polling places in federal elections and permanent registration locations which are accessible to elderly and handicapped persons.

WASH. CONST. art. VI, § 3 (2000): Who Disqualified.

All persons convicted of infamous crime unless restored to their civil rights and all persons while they are judicially declared **mentally incompetent** are excluded from the elective franchise.

WEST VIRGINIA

Institutionalization

1921 W. Va. Acts 479:

Be it enacted by the Legislature of West Virginia:

There is hereby established for the treatment and training of **mental defectives** a state institution to be known as the "West Virginia Training School." It shall belong to that class of institutions mentioned in section three, chapter fifteen of the code, and shall be managed and controlled as provided in said chapter, all the provisions whereof shall be applicable to said school except as in this act provided. The chief executive officer thereof shall be a superintendent, who shall be a legally qualified physician, scientifically trained in mental medicine and of not less than five years' experience in the treatment and care of **insane persons** and **mental defectives,** and who shall be appointed by the governor with the advice and consent of the senate.

There shall be admitted to said school any person with **mental defectiveness** from birth or an early age, so pronounced that he or she is unable to care for himself or herself and manage his or her affairs with ordinary prudence, and **who because of mental defect is a menace to the happiness and welfare of himself or herself or of others in the community,** and therefore requires care, training or control for the protection of himself or herself or of others, and yet who is not insane. This type of persons, commonly classed as **feeble-minded,** including **idiots, imbeciles** and **morons,** shall be known and designated as **mental defectives** for the purposes of this act. Should the school at any time not be able to accommodate all persons of such class offered

for admission, **preference in admission shall be given to children and women of child-bearing age.**

Marriage

W. VA. CODE § 48-2-2 (1990): For what and when marriages void; affirmation of annulment of marriage.

(a) The following marriages **are voidable and shall be void** from the time they are so declared by a judgment order of nullity:

. . .

(3) Marriages solemnized when either of the parties:

(A) Was an **insane person, idiot** or **imbecile;**

. . .

Segregated Education

W. VA. CODE § 18-8-10 (1990): Compulsory education of deaf and blind; offenses; penalties; names of deaf and blind.

Every parent, guardian or other person having control of any mentally normal minor over six years of age, who is **defective in sight or hearing to the extent that he cannot be benefited by instruction in the public schools, shall be required to send such minor to the West Virginia schools for the deaf and the blind at Romney.** Such minor shall continue to attend such schools for a term of at least thirty-six weeks each year until he has completed the course of instruction prescribed for such schools by the state board of education, or has been discharged by the superintendent of said school.

Any such **deaf** or **blind** minor shall be exempt from attendance at said schools for any of the following reasons: (a) Instruction by a private tutor or in another school approved by the state board of education for a time equal to that required by the first paragraph of this section; (b) **physical incapacity for school work**; (c) any other reason deemed good and sufficient by the superintendent of such schools, with the approval of the state board of education.

Voting

W. VA. CONST. art. IV, § 1 (1999): Elections and Officers.

The citizens of the state shall be entitled to vote at all elections held within the counties in which they respectively reside; but no person who is a minor, or who has been declared **mentally incompetent** by a court of competent jurisdiction, or who is under conviction of treason, felony or bribery in an election, or who has not been a resident of the state and of the county in which he offers to vote, for thirty days next preceding such offer, shall be permitted to vote while such disability continues . . . .

WISCONSIN

Housing Discrimination

WIS. STAT. § 60.63 (1999): Community and other living arrangements.

For purposes of s. 60.61, the location of a community living arrangement, as defined in s. 46.03 (22), a foster home, as defined in s. 48.02 (6), a treatment foster home, as defined in s. 48.02 (17q), or an adult family home, as defined in s. 50.01 (1), in any town shall be subject to the following criteria:

(1) **No community living arrangement may be established after March 28, 1978 within 2,500 feet, or any lesser distance established by an ordinance of the town, of any other such facility.** Agents of a facility may apply for an exception to this requirement, and such exceptions may be granted at the discretion of the local town. Two community living arrangement may be adjacent if the town authorizes that arrangement and if both facilities comprise essential components of a single program.

(2) **Community living arrangements shall be permitted in each town without restriction as to the number of facilities, so long as the total capacity of the community living arrangements does not exceed 25 or one percent of the towns population, whichever is greater.** If the capacity of the community living arrangements in the town reaches such total, **the town may prohibit additional community living arrangements from locating in the township.** Agents of a facility may apply for an exception to this requirement, and such exceptions may be granted at the discretion of the town.

. . .

(5) In all cases where the community living arrangement has capacity for **9 to 15 persons** being served by the program, meets the criteria listed in subs. (1) and (2), and is licensed, operated or permitted under the authority of the department of health and family services, that facility **is entitled to locate in any residential area except areas zoned exclusively for single-family or 2-family residences** except as provided in sub. (10), but is entitled to apply for special zoning permission to locate in those areas. The town may grant such special zoning permission at its discretion and shall make a procedure available to enable such facilities to request such permission.

(6) In all cases where the community living arrangement has capacity for serving **16 or more persons**, meets the criteria listed in subs. (1) and (2), and is licensed, operated or permitted under the authority of the department of health and family services, that facility is **entitled to apply for special zoning permission to locate in areas zoned for residential use.** The town may grant such special zoning permission at its discretion and shall make a procedure available to enable such facilities to request such permission.

. . .

(10) Not less than 11 months nor more than 13 months after the first licensure of an adult family home under s. 50.033 or of a community living arrangement and every year thereafter, the town board of a town in which a licensed adult family home or a community living arrangement is located **may make a determination as to the effect of the adult family home or community living arrangement on the health, safety or welfare of the residents of the town.** The determination shall be made according to the procedures

provided under sub. (11) **If the town board determines that the existence in the town of a licensed adult family home or a community living arrangement poses a threat to the health, safety or welfare of the residents of the town, the town board may order the adult family home or community living arrangement to cease operation** unless special zoning permission is obtained. The order is subject to judicial review under s. 68.13, except that a free copy of the transcript may not be provided to the licensed adult family home or community living arrangement. The licensed adult family home or community living arrangement must cease operation within 90 days after the date of the order, or the date of final judicial review of the order, or the date of the denial of special zoning permission, whichever is later.

. . .

Institutionalization

1895 Wis. Laws 240: AN ACT to establish a home for the custody, training and education of the **feeble-minded**, **epileptic** and **idiotic**, and to appropriate certain sums of money therein named.

There is hereby created and established for the care, custody and training of the **feeble-minded**, **epileptic** and **idiotic** of this state, an institution to be known as "The Wisconsin Home for Feeble-Minded."

. . .

Said home for the **feeble-minded** shall be organized into the following departments:

1. A school department for the **educable grades or classes.**

2. A custodial department for the **helpless and lower types**.

3. Such other departments, or **colonies**, as the needs of the institution may require.

1913 Wis. Laws 963, ch. 689 § 1:

. . .

There is hereby established a **new institution** to be located south of the center line of the state, and to be known as the **southern Wisconsin home for the feeble-minded and the epileptic**. The state board of control of Wisconsin is hereby authorized to purchase a suitable site for such home for the feeble-minded, such site not to exceed one thousand acres of land and to be suitable for the establishment of a home for the feeble-minded and the epileptic.

Whenever it shall appear that any **feeble-minded, epileptic or idiotic person is dangerous to be at large because of his or her vicious and demoralizing acts or tendencies**, or whenever it shall appear that any **feeble-minded** female of child-bearing age, is by reason of her condition, a **menace to society**, it shall be the duty of any supervisor of the town, city, village or ward in which such person may reside, to take measures to have such person brought before the county judge, pursuant to law.

. . .

Segregated Education

WISC. STAT. ANN. § 115.54 (West 1990): Compulsory education.

If it appears, by affidavit, to any circuit judge that any blind or deaf child between the ages of 6 and 21 is deprived of a suitable education by the failure of the person having the care and custody of the child to provide a suitable education, the judge shall order the person to bring the child before the judge. If the material allegations of the affidavit are denied, the judge shall subpoena witnesses and hear testimony. If the allegations are admitted or established, **the judge may order the child sent to the school for the visually handicapped or for the deaf or to some class or other school for instruction**, but the order shall not make a direct charge for the class or school against any county.

Sterilization

1913 Wis. Laws 971-72: AN ACT to create section 561jm of the statutes, relating to the prevention of criminality, insanity, feeble-mindedness and epilepsy.

There is added to the statutes a new section to read: Section 561jm. The state board of control is hereby authorized to appoint, from time to time, one surgeon and one alienist, of recognized ability, whose duty it shall be, in conjunction with the superintendents of the state and county institutions who have charge of criminal, **insane**, **feeble-minded** and **epileptic** persons, to examine into the mental and physical condition of such persons legally confined in such institutions.

If such experts and superintendent unanimously find that **procreation is inadvisable** it shall be lawful to perform such **operation for the prevention of procreation** as shall be decided safest and most effective; provided, however, that the operation shall not be performed except in such cases as are authorized by the said board of control.

Voting

WIS. CONST. art. III, § 2 (1986): Who not electors.

No person under guardianship, non compos mentis or insane shall be qualified to vote at any election; nor shall any person convicted of treason or felony be qualified to vote at any election unless restores to civil rights.

WIS. CONST. art III, § 2 (1999):

. . .

(4) Excluding from the right of suffrage persons:

. . .

(b) Adjudged by a court to be **incompetent or partially incompetent**, unless the judgment specifies that the person is capable of understanding the objective of the elective process or the judgment is set aside.

WYOMING

Access To Courts

WYO. STAT. ANN. § 1-11-101 (Michie 1999):

(a) A person is competent to act as juror if he is:

(i) An adult citizen of the United States who has been a resident of the state and of the county ninety (90) days before being selected and returned;

(ii) In possession of his natural faculties, of **ordinary intelligence and without mental or physical infirmity** preventing satisfactory jury service;

(iii) Possessed of sufficient knowledge of the English language.

(b) No citizen shall be excluded from service as a juror on account of race, color, religion, sex, age, national origin or economic status.

Institutionalization

1907 Wyo. Sess. Laws 188:

. . .

There shall be established in this State an institution for the custody, care, education, proper treatment and discipline of **feeble-minded** and **epileptic persons**, under the name and style of the "**Wyoming Home of the Feeble-Minded and Epileptic**."

. . .

The object of said institution shall be to provide by all proper and feasible means, and intellectual, moral and physical training of that **unfortunate portion of the community who have been born, or by disease, have become imbecile or feeble-minded or epileptic**, and by a judicious and well adapted course of training, management and treatment, to ameliorate their condition, and to develop as much as possible their intellectual faculties and physical health, and reclaim them from their **unhappy condition**, and **fit them as far as possible for future usefulness in society.**

1911 WYO. SESS. LAWS 167:

. . .

There shall be established in this state an institution for the custody, care, education, proper treatment, and discipline of **feeble minded** and **epileptic persons** under the name and style of the **Wyoming School for Defectives**.

1929 WYO. SESS. LAWS 155:

A person of any age, who has resided in the State of Wyoming continuously for one year immediately preceding the date of application, and who is either **feebleminded** or **epileptic**, may be admitted to the Training School without payment for maintenance treatment or training, unless such payment shall have been ordered by the committing court as hereinafter provided. **To be feebleminded in the sense of this Act, a person must be one who, because of inadequate mental development existing from birth or from an early age, cannot be properly cared for outside an institution, or must be a child of school age who, because of inadequate mental development, cannot be properly trained in a public school. The term "feebleminded" shall be construed to include also "imbecile" and "idiot.**

Segregated Education

WYO. STAT. ANN. § 21-2-502 (1977): Duties of school districts; interdistrict contracts; assistance of state board.

Each school district of this state having any school age children residing in the district who possess any of the **handicaps** covered under this article, shall, subject to the rules and regulations of the state board, provide for the appropriate diagnosis, evaluation, education or training, and necessary related services, and may include, but is not limited to room and board, for those children. If the school district is unable to provide the necessary and appropriate programs and services, it shall contract with another school district or agency to obtain them. **If the programs and services cannot reasonably be provided by the district or by interdistrict contracts, the state board shall assist local boards of trustees in arranging for the appropriate educational programs and services either within or without the state pursuant to its rules and regulations and financed as provided by law.**

Voting

WYO. CONST. art. VI, § 6 (1977): What persons excluded from franchise.

All **idiots**, **insane persons**, and persons convicted of infamous crimes, unless restored to civil rights, are excluded from the elective franchise.

WYO. CONST. art. VI, § 6 (1999): What persons excluded from franchise.

All persons adjudicated to be **mentally incompetent** or persons convicted of felonies, unless restored to civil rights, are excluded from the elective franchise.

CALIFORNIA

STATE PERSONNEL BOARD - PERCENTAGE OF DISABLED EMPLOYEES

1

BY CALENDAR YEAR FROM 1990 THRU 2000

12:30 Wednesday, June 7,

2000

	TOTAL	DISABLED		UNSPECIFIED
	EMPLOYEES	EMPLOYEES	PERCENT	EMPLOYEES
JAN 1				
1990	173,780	14,365	8.27	24,139
1991	182,306	15,238	8.36	22,170
1992	181,522	14,809	8.16	19,851
1993	183,071	14,261	7.79	19,030
1994	379,950	29,557	7.78	34,706
1996	381,871	28,245	7.40	32,015
1998	187,600	14,667	7.82	12,807
1999	193,650	14,724	7.60	12,437
2000	203,095	15,526	7.64	12,121

CIVIL SERVICE COMMISSION

SUSAN GRIMES MUNSELL, CHAIRPERSON
RAE LEE CHABOT
ROBERT P. HUNTER
JAMES P. PITZ

STATE OF MICHIGAN

JOHN ENGLER, Governor

DEPARTMENT OF CIVIL SERVICE

CAPITOL COMMONS CENTER
400 SOUTH PINE STREET, P.O. BOX 30002
LANSING, MICHIGAN 48909
www.state.mi.us/mdcs

JOHN F. LOPEZ, State Personnel Director

June 19, 2000

Ms Suzan Kern
7010 Miranda Dr.
Austin, TX 78752-3122

Dear Ms. Kern::

In response to your request for data on employees with disabilities, I have enclosed the following information:

	Item Title	Comment
1.	Civil Service Regulation 3.07, Twelve-Month Trial Appointment Process for Handicappers	The tabbed item is the form used for self-identification of an applicant or employee with a disability. This form has essentially remained the same since the program's inception. Although limited surveys had been conducted prior to 1984, it was that year that a comprehensive survey of the entire work force was undertaken to ask those with disabilities to come forward and identify themselves using a form quite similar to this. The results were entered into the personnel database and then used for data reporting. The Civil Service application form was modified to offer applicants the opportunity to self-identify. The enticement to self-identify was access to the expanded certification (later called augmented certification) program wherein eligibility for appointment consideration was expanded to lower bandwidths for underutilized protected group members when there were insufficient representation in the first band of names.
2.	Handicapper Guide to State Employment	This is a general brochure describing the Michigan Department of Civil Service's programs for applicants and employees with disabilities published in 1991.

3.	Annual Work Force Report, Fiscal Year 1986-87	This is the first mass publication of data on employees with disabilities subsequent to the 1984 survey.
4.	Twelfth Annual Work Force Report, Fiscal Year 1990-91	Similar data on employees with disabilities a few years later.
5.	Seventeenth Annual Work Force Report, Fiscal Year 1995-96	Similar data on employees with disabilities a few years later with a few additions.
6.	Latest Annual Work Force Report, Fiscal Year 1999-2000	Similar data on employees with disabilities a few years later with a few additions. This is at the printers right now and is not yet published.
7.	Civil Service Utilization Analysis Reporting System, Availability Analysis Report, Statewide Summary by Job Category, 1-91 through 9-99	This is the statewide roll-up of the classified workforce by race, sex, and handicap that also reports underutilization compared to an Availability Standard. This is provided to all appointing authorities and is available by FOIA, though it is not published. Various handicapper Availability Standards were used over the years (11.5% in 1977; 9.7% in 1985), but by the time we started saving these reports when I came on the job as the Civil Service State EEO Coordinator in 1990, we were using 4.4% handicapper Availability Standard for entry level jobs requiring no education or experience and varying Availability Standards for other jobs. The latter Availability Standards were based on both 4.4% external handicapper availability weighted 35% and internal employment list handicapper representation weighted 65% for the specific job. It looks to me as though the ratio of handicapper underutilization to the size of the work force has increased during these years. Before one makes the assumption that these numbers support a conclusion that discrimination (as distinguished from mere underutilization) has increased, one would have to know that the incentive for identifying as a person with a disability declined as the affirmative action program in general became increasingly controversial in the courts and the media, and consequently less supported by the

administration. In 1997 the augmented certification program was abolished and the entire affirmative action administrative program began to be dismantled.

Although these materials are rather voluminous, I hope some will be useful to you in your project. You may contact me at pollockm@state.mi.us or 517/373-2961 if you have questions about any of the materials.

Sincerely,

Mary I. Pollock
Employment Relations Board Appeals Officer
(Former State EEO Coordinator)

Enclosures as listed

TWELFTH ANNUAL WORK FORCE REPORT

FISCAL YEAR 1990-91

MAY 1992

PRINTED BY AUTHORITY OF:
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State of Michigan
Department of Civil Service
Management Services Division

BEST AVAI

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Table 4-7

AVERAGE AGE, PAY RATE, AND LONGEVITY ANALYSIS FOR HANDICAPPERS BY DEPARTMENT

DEPARTMENT	NUMBER OF EMPLOYEES	NUMBER OF HANDICAPPER EMPLOYEES	HANDICAPPER PERCENT OF ALL EMPLOYEES	HANDICAPPER AVERAGE AGE	HANDICAPPER AVERAGE HOURLY RATE	NUMBER OF HANDICAPPERS RECEIVING LONGEVITY	PERCENT OF HANDICAPPERS ELIGIBLE FOR LONGEVITY
Agriculture	580	37	6.6	46	17.86	30	81.1
Attorney General	490	25	5.1	50	23.98	20	80.0
Auditor General	154	11	7.1	43	25.40	11	100.0
Civil Rights	186	19	10.2	53	19.92	19	100.0
Civil Service	322	26	8.1	46	18.66	20	76.9
Commerce	2,193	145	6.6	45	17.01	128	88.3
Corrections	13,367	688	5.1	43	18.89	462	67.3
Education	2,005	221	11.0	48	18.59	195	88.2
Executive Office	53	0	.0	0	.00	0	.0
Labor	952	148	15.3	47	18.19	120	82.2
Licensing & Regulation	363	38	10.5	47	20.09	33	86.8
Lottery	233	25	10.7	45	15.48	21	84.0
Management & Budget	1,358	143	10.5	46	15.84	115	80.4
Mental Health	8,181	699	8.6	48	16.27	621	88.8
M.E.S.C.	2,555	315	12.3	48	15.41	267	84.8
Military Affairs	333	26	7.8	46	13.70	22	84.6
Natural Resources	3,842	147	4.0	43	16.36	116	78.9
Public Health	1,981	110	5.6	46	17.26	83	75.5
Social Services	13,543	1,092	8.1	46	15.78	980	89.7
State	2,345	260	11.1	44	15.26	182	70.0
State Police	3,051	86	2.8	46	17.10	79	91.9
Transportation	3,994	393	9.8	47	16.99	352	89.6
Trans. Bridge Authority	138	7	5.1	49	13.38	6	85.7
Treasury	1,479	134	9.1	45	17.32	118	88.1
STATEWIDE TOTALS	83,458	4,791	7.5	46	16.42	4,000	83.5

Source: KA5212P01, Average Age, Pay Rate, and Longevity Analysis for Handicappers by Department, pay period ending 9-28-91.

AVERAGE AGE, PAY RATE, AND LONGEVITY ANALYSIS FOR HANDICAPPERS BY DEPARTMENT

Table 4-2

Fiscal Year 1998-99

DEPARTMENT NAME	NUMBER OF EMPLOYEES	NUMBER OF HANDICAPPER EMPLOYEES	HANDICAPPER PERCENT OF ALL EMPLOYEES	HANDICAPPER AVERAGE AGE	HANDICAPPER AVERAGE HOURLY PAY RATE	NUMBER OF HANDICAPPERS RECEIVING LONGEVITY	PERCENT OF HANDICAPPERS ELIGIBLE FOR LONGEVITY
AGRICULTURE	691	31	4.7	49	$22.67	30	83.8
ATTORNEY GENERAL	503	15	2.9	51	$24.79	15	100.0
C.I.S. - UNEMPLOYMENT AGENCY	1,359	137	10.5	51	$19.94	135	98.8
CIVIL RIGHTS	105	10	8.3	48	$20.76	9	90.0
CIVIL SERVICE	359	10	2.1	50	$26.34	10	94.7
COMMUNITY HEALTH	5,972	399	6.5	49	$20.64	368	94.2
CONSUMER AND INDUSTRY SERVICES	2,601	163	6.9	48	$21.24	176	97.3
CORRECTIONS	17,332	812	4.7	47	$20.41	772	96.1
EDUCATION	488	34	7.2	48	$17.89	32	94.1
ENVIRONMENTAL QUALITY	1,877	67	3.6	47	$22.56	63	93.8
EXECUTIVE OFFICE	90	0	0.0	0	$0.00	0	0.0
FAMILY INDEPENDENCE AGENCY	13,139	899	6.8	48	$16.75	828	96.1
LEGISLATIVE	177	6	3.4	48	$30.62	6	100.0
MANAGEMENT AND BUDGET	1,092	110	6.0	48	$20.48	110	96.8
MI DEPARTMENT OF CAREER DEVELOPMENT	1,027	139	13.5	50	$20.41	131	94.2
MILITARY AND VETERANS AFFAIRS	869	40	4.6	48	$18.14	35	88.0
NATURAL RESOURCES	2,535	74	2.8	47	$18.36	61	82.4
STATE	2,302	168	7.3	48	$18.89	161	93.0
STATE POLICE	3,349	52	1.6	48	$20.66	51	98.2
TRANSPORTATION	3,391	264	8.2	49	$22.80	260	97.1
TREASURY	1,739	133	7.7	49	$21.18	130	97.7
STATEWIDE	61,551	3,499	5.7	48	$20.33	3,324	95.1

Source: MAIN MDB Civil Service WF26, pay period ending 9-18-99.

BEST AVAILABLE

NE

Suzan Kern

From: <dseldon@notes.state.ne.us>
To: <skern@austin.rr.com>; <mmccrory@notes.state.ne.us>
Sent: Wednesday, June 21, 2000 8:35 AM
Subject: Statistical information on Persons with Disabilities.

As of March 30, 2000, Nebraska has 3.2% (16, 298/ 517) or 517 persons with a disability employed with the State. These figures include only employment with the State.

Dorsey Seldon,
Affirmative Action Specialist
DAS-State Personnel
402-471-3678

BLE COPY

Subject: Re: Statistical information on Persons with Disabilities.
Date: Thu, 22 Jun 2000 10:51:45 -0500
From: dseldon@notes.state.ne.us
To: "Suzan Kern" <skern@austin.rr.com>

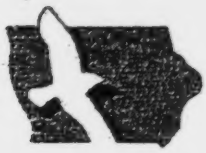
Suzan,
My records only go back to 1988. Prior to this time we did not keep accurate statistical data o n the employment of persons with a disability. This was also at the same time that we changed how we compiled the information. The information you are receiving is "as of March" of the data listed.
2000 3.2% 517/16,298
1999 3.2% 521/16,258
1998 3.4% 549/16,018
1997 3.5% 555/16,007
1996 3.5% 565/15.965
1995 3.7% 599/15,797
1994 3.9% 631/15,848
1993 4.0% 645/15,807
1992 4.0% 633/15,671
1991 4.2% 645/15,373
1990 4.3% 642/14,291

1989 4.2% 629/14,041
1988 4.0% 706/14,592

"Suzan Kern" <skern@austin.rr.com>
06/21/2000 12:30 PM

To: <dseldon@notes.state.ne.us>
cc:
Subject: Re: Statistical information on Persons with Disabillities.

Dorsey -- Of course, the answer is as soon as possible! I've been working for almost a month to get this info from all 50 states, and our brief deadline is looming. However, I understand that you are very busy, too. Please let me know how soon you think it would be reasonable for you to compile the information for 1980 and 1990. Thanks again. -- Suzan



Iowa Division of Persons with Disabilities
321 E. 12th St., Lucas State Office Building Des Moines, Iowa 50319
(515) 242-6172 V/TTY (888) 219-0471 V/TTY FAX (515) 242-6119
E-Mail: dhr.disabilities@dhr.state.ia.us

THOMAS J. VILSACK
GOVERNOR

SALLY J. PEDERSON
LIEUTENANT GOVERNOR

June 22, 2000

FAX COVER

To **Brian East**
Senior Attorney
Advocacy , Incorporated

FAX: **512-323-0902**

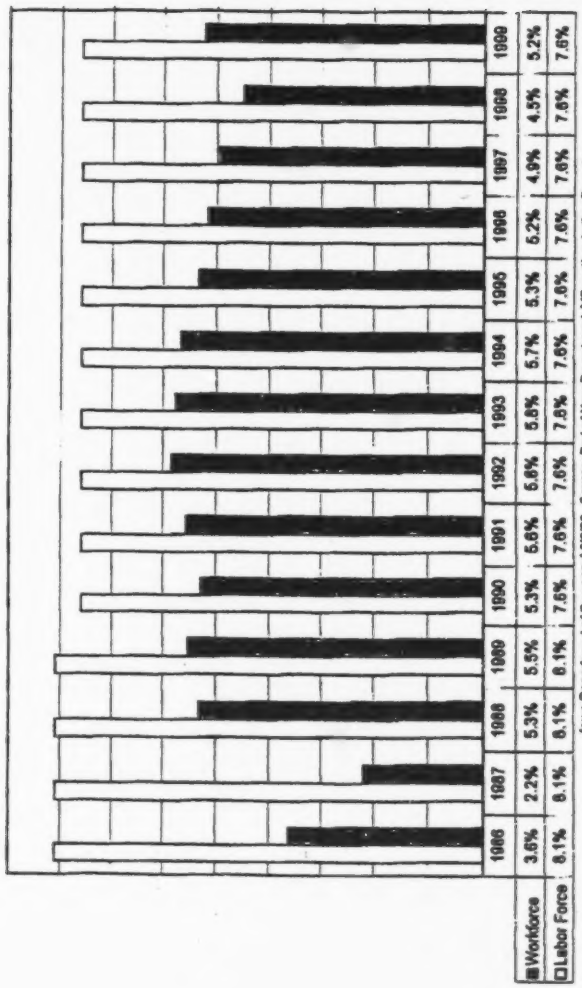
From: John H. TenPas, Disability Consultant
Division of Persons with Disabilities
Iowa Department of Human Rights
Lucas State Office Building
Des Moines, IA 50319
515-281-5969
1-888-219-0471
515-242-6119(fax)
john.tenpas@dhr.state.ia.us

Pages **1 of 3**

Subject: **Attached, is the information that you requested from the State of Iowa regarding employment of persons with disabilities in state government. I apologize for the length of time in completing this task and hope the information will still be helpful. Should you have any questions, please call me at the number above. Thank you.**

EOE Task Force
Graph #1

State of Iowa Executive Branch Full-Time Employees
Disabled Workforce vs Disabled Labor Force
All EEO4 Categories



	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999
Workforce	3.6%	2.2%	5.3%	5.5%	5.3%	5.6%	5.6%	5.8%	5.7%	5.3%	5.2%	4.9%	4.5%	5.2%
Labor Force	8.1%	8.1%	8.1%	8.1%	7.6%	7.6%	7.6%	7.8%	7.6%	7.8%	7.6%	7.6%	7.8%	7.6%

Iowa Department of Personnel 3/8/00 Source: End of Year Department Affirmative Action Reports

	Non-Disabled	PWD
1999	18,549	1,023
1998	18,065	853
1997	17,623	917
1996	17,655	960
1995	17,424	980
1994	17,333	1,039
1993	17,199	1,050
1992	17,636	1,094
1991	18,396	1,080
1990	19,156	1,066
1989	18,487	1,079
1988	18,421	1,033
1987	19,311	433
1986	19,743	741